

INDEX

SANTA FE CITY COUNCIL MEETING

February 26, 2003

<u>Item</u>	<u>Action</u>	<u>Page #</u>
<u>APPROVAL OF AGENDA</u>	Approved	1-2
<u>CONSENT CALENDAR</u>	Approved [amended]	2-3
<u>APPROVAL OF MINUTES:</u> February 12, 2003	Approved	3
<u>PRESENTATIONS</u>		
Employee of the Month: Conrad Archuleta		3
Legislative Report (Mark Duran)		4-5
<u>CONSENT CALENDAR DISCUSSION</u>		
Lease Agreement and Release of Liability Affecting Air Space Within The City Public Aerial ROW – 502 Cerrillos Road; T Mobile.	Approved	5
<u>ACTION ITEMS</u>		
Resolution No. 2003-25. Supporting Passage of HB12, Fine Arts Education Act	Approved	6
Affirming Governing Body's Support of Trust for Public Land in its Efforts to Facilitate Planning, Design and Development of a New Park and New Plaza on SF Railyard	Approved	6-8
<u>MATTERS FROM CITY MGR</u>		
Water Budget for 2003	Accept staff's finding of no allocation; to be in effect from 3/1/03 through end of Feb 2004	Approved
<u>MATTERS FROM CITY CLERK</u>		
None.		
<u>MATTERS FROM CITY ATTY</u>		
None.		

Item	Action	Page #
<u>EXECUTIVE SESSION</u>		
None.		
<u>COMMUNICATIONS/GOV BODY</u>		
None.		
<u>PETITIONS FROM THE FLOOR</u> [pp. 13-14]		
<u>APPOINTMENTS</u>		
None.		
<u>PUBLIC HEARINGS</u>		
<u>Liquor Licenses</u>		
None.		
<u>Other Public Hearings</u>		
Ordinance No. 2003-04: Amending Sections of NM Uniform Traffic Ordinance Regarding Curb Loading Zones	Approved	14
Ordinance No. 2003-05: Relating to Inclusionary Zoning Ordinance	Approved [amended]	15-16 & 74
Ordinance No. 2003-06: Regarding Community Dev Commission and Chapter 26 SFCC 1987 Regarding Housing Opportunity Program -and-	Approved [amended]	15-16 & 74
Resolution No. 2003-27: Readoption of Admin Procedures for City HOP Program and Readopting Admin Procedures with Further Amendments	Approved [amended]	15-16 & 74
Ordinance No. 2003-7: Relating to Exemption of Capital Impact Fees	Approved [amended]	15-16 & 74
Ordinance No. 2003-8: Establishing Minimum Wage Requirements for All Business Which Obtain a Business License or Business Registration From City of SF Which Employ 25 or More Workers or, in Case of Non-profit Businesses, Which Employ 25 or More Workers	Approved [amended]	17-73

MINUTES OF THE
REGULAR MEETING OF THE
GOVERNING BODY

Santa Fe, New Mexico

February 26, 2003

AFTERNOON SESSION

A regular meeting of the Governing Body of the City of Santa Fe, New Mexico was called to order on this date at approximately 4:00 p.m. in City Hall Council Chambers. Following the Pledge of Allegiance and Invocation, Roll Call indicated the presence of a quorum, as follows:

Members Present:

Mayor Larry A. Delgado
Councilor Carol Robertson Lopez, Mayor *Pro Tem*
Councilor Patti J. Bushee [arriving at 4:45 p.m.]
Councilor Miguel M. Chavez
Councilor David Coss
Councilor Karen Heldmeyer
Councilor Matthew E. Ortiz
Councilor David Pfeffer
Councilor Rebecca Wurzbarger

Members Excused:

None.

APPROVAL OF AGENDA

Mayor Delgado stated that, in accordance with discussion among Governing Body members prior to the Call to Order, he was requesting the following:

- That items 2, 3 and 4 on the Evening Session Agenda be heard together in the interest of time. [Inclusionary Zoning and Housing Opportunity Program items.]
- That item 5 on the Evening Session Agenda (Resolution Approving NPDES Plan and Submitting an Application for Permit from U.S. EPA) be postponed to a special meeting at 3:00 p.m. on March 3.

Councilor Ortiz moved approval of the Agenda, with these changes. Councilor Coss seconded the motion, which passed 7-0 by voice vote, with Councilor Chavez, Councilor Coss, Councilor Heldmeyer, Councilor Lopez, Councilor Ortiz, Councilor Pfeffer and Councilor Wurzburger voting for, and none against. [Councilor Bushee was not present for this action.]

APPROVAL OF CONSENT CALENDAR

Upon motion by Councilor Lopez, seconded by Councilor Ortiz, the Consent Calendar was approved, as amended, on the following Roll Call vote:

For: Councilor Chavez; Councilor Coss; Councilor Heldmeyer; Councilor Lopez; Councilor Ortiz; Councilor Pfeffer; Councilor Wurzburger.

Against: None.

Not present for the vote: Councilor Bushee.

- a) Bid No. 03/33/B — Refuse Collection Unit; Don Chalmers Ford.
 - 1) Request for Approval of Budget Transfer — Solid Waste GRT Designated Fund.
- b) Bid No. 03/34/B — (2) Pumps for Water Division; Pioneer Equipment.
- c) Request for Approval of Grant Award — Computer Hardware Upgrade for Municipal Court; New Mexico Municipal Judges Association.
 - 1) Request for Approval of Budget Increase — Court Automation Fund.
- d) Request for Approval of Grant Award — Education and Outreach Initiative (EOI); U.S. Department of Housing and Urban Development.
 - 1) Request for Approval of Budget Increase — Grant Fund.
- e) Request for Approval of License Agreement — Landscaping Within City Acequia Right of Way — 1719 Second Street; Susan Hill.
- f) [Removed by Councilor Pfeffer for discussion.]
- g) Request for Approval of Lease Agreement — Renewal for Landscaping and Parking on City Land Abutting Harkle Road; Andreas R. Lemperg and Ingela Turesson-Lemperg.

- h) Request for Approval of Contract Amendment No. 1 — Senior Employment Program; North Central New Mexico Economic Development District Area Agency.
 - 1) Request for Approval of Budget Increase — Grant Fund.
- i) Request for Approval of Professional Services Agreement — Day Reporting Program for Truancy Prevention Within Santa Fe Public Schools; Jack-O Consulting.
- j) Request for Approval of Amendment No. 1 to Professional Services Agreement — City Wide Sewer Utility Construction; Albuquerque Underground, Inc.
- k) Request for Approval of Professional Services Agreement — Design and Engineering Services to Complete Airport Master Plan Work and Preparation of Master Leasing Plan; C.R. Walbridge & Associates, L.L.C.
- l) Request for Approval — Paratransit Operations Analysis Implementation Plan and Subcommittee Recommendations.
- m) CONSIDERATION OF RESOLUTION NO. 2003-24.
(Councilor Heldmeyer and Councilor Wurzburger)
A Resolution in Support of City Staff Developing a Project Agreement in Cooperation With the New Mexico State Highway and Transportation Department's Municipal Arterial Program That Will Provide for Road Improvements to Old Pecos Trail From Cordova road to East Berger Street.
 - 1) Request for Approval of Budget Increase — CIP Reallocation Fund.

APPROVAL OF MINUTES: February 12, 2003

Councilor Lopez moved for approval. Councilor Ortiz seconded the motion, which passed by voice vote, with Councilor Chavez, Councilor Coss, Councilor Heldmeyer, Councilor Lopez, Councilor Ortiz and Councilor Pfeffer voting for, and Councilor Wurzburger abstaining. [Councilor Bushee was not present for this action.]

PRESENTATIONS

Employee of the Month for February 2003 — Conrad Archuleta, Custodian Supervisor, Property Control Division.

Mayor Delgado presented Mr. Archuleta with a check for \$200 from the Employee Benefit Committee, a certificate for dinner for two at Tortilla Flats, and a certificate.

Mayor Delgado said that Mr. Archuleta “has shown exceptional selfishness and dedication to his job and coworkers. He consistently and quietly donates many hours to the employees’ sick leave bank.”

Legislative Report. (Mark Duran)

Mr. Duran reported that, with 23 days left in the Legislative Session, the City has three priorities, all water priorities: the Buckman wells project; upgrades to the treatment facility; and the San-Juan Chama diversion project. Mr. Duran said lobbying emphasis is being placed on the Buckman wells project because the City has a \$7 million loan application there, which would be 2% monies from the Federal Drinking Water Act. He said the City still needs a 20% match from the State, or about \$1.6 million, which is being done through New Mexico Finance Authority legislation.

Mr. Duran said the City is also working through the NMFA on the San-Juan Chama diversion project to get a \$2 million grant that has already been approved via application, but has nothing to do with the appropriation the City needs from the Legislature. He stressed that having application approval from NMFA does not mean money will automatically come.

Mr. Duran said the City is now regrouping and having all of its legislative delegation introduce capital outlay legislation to fund the water treatment facility upgrades, since that project does not allow the City to go through an application process with NMFA.

Mr. Duran stated that the City is also tracking a bill that would commit long term funding to water needs in the state of New Mexico. He stated that this NMFA legislation would ask the Legislature, beginning next year, to take 10% off the top of the Severance Tax Permanent Funds and allow the NMFA to use those monies for bonding. He said this would eventually allow \$100 million in bonding capacity. He said this is the first project that has been brought forward that will look at long-term funding for water projects.

Mr. Duran commented that the number one water-related project on NMFA’s list for long-term money would be the San Juan-Chama direct diversion project. He added, “One of the things they noted in committee was the fact that they are insisting that water projects be handled regionally... and that means working with the County and offering applications and solutions on a regional basis.”

Mr. Duran stated that “turf battles” are going on between the NMFA and State Engineer Office in terms of water planning issues, which the City will be watching closely to see where the authority for long-term water planning will ultimately land

and, by extension, who will control the monies that will be distributed for water projects.

Councilor Heldmeyer said she thought the single-most important safety issue the City is facing in the current Legislature is fireworks legislation. She stated that Fire Marshal Ted Bolleter is following this closely. She reminded the Governing Body that it passed a resolution making this a non-funding priority last year.

Mr. Duran stated that he would consult with the City Manager to see if he should pursue this issue as a priority.

Councilor Bushee noted that the State Senate easily passed a bill outlawing speed humps and bumps – if it passes in the House, the City will be affected.

Mr. Duran stated that he would get to work on that bill in the House pending direction from the City Manager.

CONSENT CALENDAR DISCUSSION

f) Request for Approval of Lease Agreement and Release of Liability Affecting Air Space Within the City Public Aerial Right of Way – 502 Cerrillos Road; T Mobile.

Councilor Pfeffer observed that the appraised fair market rental amount for .33 square feet of airspace in this case was less than \$100 a year. He asked staff to look into other methods of evaluation.

Councilor Pfeffer moved for approval. Councilor Lopez seconded the motion.

Councilor Chavez said he was not sure the City could circumvent what has been established as fair market value, nor was he sure the City wanted to go in that direction.

Councilor Pfeffer explained that he did not think the City was garnering a value for leasing spaces for cell phone access that was remotely close to the actual financial value to the companies involved.

Councilor Heldmeyer agreed with Councilor Pfeffer. She commented that raw square footage has a value based on what it is zoned for, but looking at actual use is also a valid way of assessing value, and it results in much more money and is probably a lot fairer to the taxpayers.

The motion passed on the following Roll Call vote:

For: Councilor Coss; Councilor Heldmeyer; Councilor Lopez; Councilor Ortiz; Councilor Pfeffer; Councilor Wurzburger; Councilor Bushee; Councilor Chavez.

Against: None.

[Conclusion of Consent Calendar discussion.]

**CONSIDERATION OF RESOLUTION NO. 2003-25. (Councilor Chavez)
A Resolution Supporting Passage of HB12, the Fine Arts Education Act,
Which Will Make Funding Available to School Districts for Fine Arts
Education Programs.**

Arts Commission staff member Sabrina Pratt said this bill, should it pass the Legislature, will provide money through the funding formula for public schools throughout New Mexico for fine arts education programs. She said the bill has passed the House 68-0 and has also passed in the Senate Education Committee, and is headed for the Legislative Finance Committee.

Councilor Chavez moved for approval. Councilor Lopez seconded the motion, which passed on the following Roll Call vote:

For: Councilor Heldmeyer; Councilor Lopez; Councilor Ortiz; Councilor Pfeffer; Councilor Wurzburger; Councilor Bushee; Councilor Chavez; Councilor Coss.

Against: None.

**CONSIDERATION OF RESOLUTION NO. 2003-26. (Councilor Coss)
A Resolution Affirming the Governing Body's Support for the Trust
for Public Land in Its Efforts to Facilitate the Planning, Design and
Development of a New Park and New Plaza on the Santa Fe Railyard;
Approving the Preliminary Conceptual Plan for the Park and Plaza;
and Affirming Support for the Trust for Public Land's Efforts to Obtain
Funding From the United States Government.**

Councilor Coss stated that this resolution would reaffirm that the City is in this process with the Trust for Public Land, would give them the green light to continue.

Councilor Coss moved for approval. Councilor Chavez seconded the motion.

Councilor Wurzbarger said she supported this resolution, but was concerned about the large amount of hardscaping on the plaza, and hoped that would be reconsidered at some point.

TPL representative Bryan Drypolcher clarified that the conservation easement requires that any of the areas on the park designated for public walkways or public gathering would not have asphalt or concrete paving. He said anything resembling paving would have a porous nature, e.g., plug pavers or gravel paving.

Councilor Ortiz stated that he supported the resolution. He asked Mr. Drypolcher if he had an estimate on the implementation of the master plan.

Mr. Drypolcher responded that the construction budget was about \$5.25 million, and design and engineering fees would bring that to about \$6.25 million.

City Planning director Cyrus Samii clarified that \$5.5 million has been set aside for right of way acquisition, but that is a separate pot of money and does not include these improvements. He said federal money is being sought for the \$6.25 million from the next phase of TEA-21.

Mr. Drypolcher said TPL also will seek private and other local monies.

Councilor Lopez commented that \$6.25 million was way too much money for this project, which disappointed her because it would take a relatively long time to raise that kind of money and get the park going — in the meantime, the land sits there, essentially unused, and presents an increasing danger to citizens because of the number of homeless people there.

Councilor Lopez said she has not seen a timetable for construction or any other elements, either, and looked forward to seeing that information.

Mr. Drypolcher pointed out that this project was not just for the ten-acre park, but was for also the plaza, walkways, shade structure and functional facilities that would serve not just the public but also the Santa Fe Farmers Market. He said that, when one compares the square footage construction costs for the 13.5 acres to similar projects around the country, the price is in the ballpark for park and public space development.

Councilor Chavez stated that, as this project approaches the final design stage, there should be a water budget for the park area. He said that should be

in the front end of the budget and not the back end to avoid what happened two years ago when the City stopped watering its parks.

Councilor Heldmeyer stated that Mr. Drypolcher has pointed out that this is a conceptual plan, and that TPL will ask for public input and be open to potential changes before arriving at the final plan.

Councilor Bushee reminded Councilors that the City will not be contributing “a dime” to this park, although there may be some commitments later in terms of matching funds or services.

Councilor Bushee also pointed out that this project was held up for years while the Council dealt with the overall structure for the Railyard, and she hoped the Council would help move this project forward.

Councilor Pfeffer said he hoped an overpass could be considered at St. Francis where the pedestrian/bike trail crosses the tracks, since he would prefer this to an underpass. He stated that there may be ADA issues to be dealt with, but he thought ADA-compliant overpasses could be found in other areas for reference.

The resolution was adopted on the following Roll Call vote:

For: Councilor Ortiz; Councilor Pfeffer; Councilor Wurzbarger; Councilor Bushee; Councilor Chavez; Councilor Coss; Councilor Heldmeyer.

Against: Councilor Lopez.

In voting, Councilor Lopez said she would not support this project until Mr. Drypolcher could come up with a time frame and target dates.

MATTERS FROM THE CITY MANAGER

Water Budget for 2003

Mr. Romero stated that the City Manager is required to present a draft budget to the Governing Body each February, summarizing the demand and supply of the Utility system and making an allocation recommendation to the Governing Body.

Mr. Romero read his Allocation Analysis report, which was contained in the packet.

Mr. Romero's report stated that, in 2002, the production capability of the SDCW Utility approximately equaled the water delivered; and under Stages Two and Three water restrictions of last year, the Utility met a demand of approximately 10,500 afy with a production capability of approximately 10,500 afy.

Mr. Romero's report also cited issues affecting the City's water rights and production capability, including Rio Grande Compact compliance, Minnow v. Keys litigation, BLM and OSE permitting of the Buckman supplemental wells 10-13, drought conditions and fire danger in the Santa Fe Watershed.

Mr. Romero stated that, given the supply and demand summary as discussed, and the uncertainties as stated, "staff and the City Manager strongly recommend a finding of no allocation."

A "Santa Fe Water Updates" summary was distributed along with the weekly water report dated February 12, 2003.

Mr. Romero also presented a progress report highlighting the following:

- Residential retrofits total 1,088 toilets, and commercial retrofits total 768. This does not consider the 8,100 done under the Waterwise Program.
- Administrative fees collected to date are \$73,520.

Councilor Chavez said it was his understanding that the Buckman supplemental wells, done under an emergency permit, would meet existing demand of the current residents and would not be allocated to new growth.

Mr. Romero responded that this was correct; the supplemental wells were emergency wells and would only be used if the water supply in the reservoirs were incapable of producing the necessary water supply.

Councilor Chavez questioned how, if the drought conditions continue through this spring and summer, the City will deal with new growth. He said a water budget might be necessary to allocate a certain number of permits for new construction based on water availability.

Councilor Pfeffer moved to accept staff's finding of "no allocation" and that this be in effect from March 1, 2003 to the last day of February 2004.

Raising a point of order, Councilor Heldmeyer said this was not listed on the agenda, and asked the City Attorney if this motion was in order with respect to the Open Meetings Act.

Mr. Thompson responded that he thought there had been adequate notice to adopt what had been presented by the City Manager.

Councilor Lopez seconded the motion.

Councilor Pfeffer noted that the City Council is also required to review the water budget ordinance at its first meeting in March, so his motion was not intended to forestall reconsideration of anything involving the water budget.

Councilor Bushee asked Mr. Romero if his “no allocation” recommendation meant no building permits would be issued.

Mr. Romero responded that building permits continue to be issued under the WBAO office retrofit program, where anyone building has to offset their use through that program.

Councilor Bushee noted that reservoir levels are at 31% and last year at this time they were at 33%, so thought the City’s water situation was worsening.

Mr. Romero responded by pointing out that, while last year there was virtually no snow in the ski basin, this year there is 10” and that does not include snowfall last night and today.

City water administrator Rick Carpenter also clarified for Councilor Bushee that two of the supplemental wells will be online at the end of July and two more will follow at the end of August.

Councilor Heldmeyer commented that she had been expecting more of a report from staff than the single-page report in the packet.

Councilor Heldmeyer pointed out that Well No. 9 was not producing at the expected levels, and preliminary reports she has seen suggest that Wells 10-13 will not produce at expected levels, either.

Councilor Heldmeyer stated that the City is in a serious situation that it should be seriously addressing.

Councilor Heldmeyer also questioned the propriety of voting to accept what was listed on the agenda as a report from the City Manager. She said she could not recall the Council ever doing that.

Councilor Heldmeyer said the Council would be hearing potential amendments to the water budget in a couple of weeks, but questioned why they had not gone through the committee process. She pointed out that the Council

would be making long-term decisions on the City's water situation with virtually no discussion.

Councilor Heldmeyer said this was a last-minute rush, and stated that the City Manager should have presented his report sooner.

Councilor Heldmeyer stated that she would abstain from voting tonight because there was not sufficient public notice. She said there was also not enough discussion, including "the relationship between the retrofits and whether they are providing actual — rather than estimated, which is what we've seen so far — offsets. Are they? Aren't they? I don't know. And all of the numbers I've seen have been estimates."

Responding to questioning from Councilor Coss, Mr. Romero said 528 building permits have been issued since the water budget was adopted on 9/11/02.

Planning staff representative Jim Salazar stated that new construction figures for this period (9/11/02 through 2/14/03) were 183 residential permits and 18 commercial. He said the previous year was 285 residential and 21 commercial, and the year before that was 143 residential and 28 commercial.

Councilor Coss said he has learned that the City is allowing builders to retrofit fixtures in commercial businesses that should have been retrofitted by January 30. He asked if he was correct that this practice is being permitted under the City's administrative procedures.

Planning & Land Use director Sandra Aguilar responded that this was correct. She said the City Manager, in an attempt to encourage all businesses to take care of their retrofits, invited them to sign up with the records at WBAO, and that has been done. He stated that Dan Ransom from the Water Company is doing the inspections.

Councilor Coss stated that those retrofits should have been done two months ago so that the City could have a better idea of what the water savings would be. He expressed concern that the City could be heading into "a train wreck" because it is going to run out of retrofits and still doesn't know how much water is being saved.

Councilor Lopez reminded Councilors that, a year ago, the City wasn't even sure how much water it was using: "And now we know, and the good news is we were using 8.2 million gallons at this time last year, and now we're using 6.9 million gallons. Well, somebody's doing something right." She commended staff on doing an extraordinary job.

Councilor Lopez said she was not trying to imply that the City was out of the woods, since this was a long-term process.

Councilor Ortiz stated that he would encourage staff to make sure that, at this time next year, committee hearings have been held in advance of this report. He said he would echo Councilor Heldmeyer's concerns about the brevity of the City Manager's report.

Councilor Ortiz concurred with Councilor Lopez that the City has made impressive progress since this time last year, including the pursuit of water rights, and finally coming to grips with what the existing potential demand is on the system.

Councilor Bushee recommended that the water budget be reviewed twice annually. She said she also hoped the Public Utilities Committee would go back to meeting twice monthly, adding that the PUC should have had an opportunity to review the City Manager's recommendations.

Responding to questioning from Councilor Bushee, Mr. Salazar stated that the City is requiring retrofits at the point of water hookup if the building permit has been issued. Councilor Bushee asked how many of the 183 residential building permits issued did not have a water permit. Mr. Salazar responded that a number of the water hookups were from building permits issued prior to 9/11/02. He said those are being required to retrofit.

Mr. Salazar agreed to provide a report on the actual figures at the next PUC meeting.

Mr. Romero said he would take personal responsibility for his report. He said the ordinance did not speak to committee review, and he took that literally. He stated that perhaps the ordinance should include a committee review requirement.

The motion passed on the following Roll Call vote:

For: Councilor Ortiz; Councilor Pfeffer; Councilor Wurzburger; Councilor Coss; Councilor Lopez.

Against: Councilor Bushee.

Abstaining: Councilor Chavez; Councilor Heldmeyer.

RECESS: 5:45 p.m.

EVENING SESSION

The Evening Session of the City Council Meeting was called to order at approximately 7:00 p.m. in Sweeney Center. Following the Pledge of Allegiance and Invocation, Roll Call indicated the presence of a quorum, as follows:

Members Present:

Mayor Larry A. Delgado
Councilor Carol Robertson Lopez, Mayor *Pro Tem*
Councilor Patti J. Bushee
Councilor Miguel M. Chavez
Councilor David Coss
Councilor Karen Heldmeyer
Councilor Matthew E. Ortiz
Councilor David Pfeffer
Councilor Rebecca Wurzbarger

Members Excused:

None.

PETITIONS FROM THE FLOOR

Virginia Miller

Ms. Miller stated that Councilor Chavez, sponsor of the City Council resolution opposing a U.S. preemptive strike on Iraq, invited her to participate in the Cities for Peace events, held February 13 and 15 in Washington, D.C. and New York City. She said Linda Hibbs, another peace activist, accompanied her.

Ms. Miller reported that they joined about 30 other leaders who had passed resolutions from cities across the country, coordinated by the Institute for Policy Studies in Washington, D.C. She said the group attended a press conference at the National Press Club and attempted to deliver their city resolutions at the White House in person. She stated that the resolutions were later mailed because deliveries are no longer accepted at the White House.

Ms. Miller stated that she also gave a copy of Santa Fe's resolution to Councilor Bill Perkins at New York City Hall.

Ms. Miller said that, as of today, 117 U.S. cities and counties have adopted similar resolutions, including the City of Los Angeles last Friday.

Carolyn Sigstedt

Ms. Sigstedt announced that, on Saturday, March 8, at 12:00 noon, a prayer vigil and fast for peace will take place at the Roundhouse in Santa Fe. She said fasting is encouraged from 7:00 a.m. to 7:00 p.m.

APPOINTMENTS

None.

PUBLIC HEARINGS

**CONSIDERATION OF BILL NO. 2003-4: ADOPTION OF
ORDINANCE NO. 2003-4. (Councilor Heldmeyer)
An Ordinance Amending Sections 12-6-8.1, 12-6-8.2 and 12-6-8.4 of the
New Mexico Uniform Traffic Ordinance Regarding Curb Loading Zones.**

Transportation Operations manager Bill Hon stated that this ordinance reflected changes to the loading zone ordinance. He said the current ordinance did not specifically define the need for a loading zone permit in order to use a freight-loading zone.

There was no public comment.

Councilor Lopez moved for approval. Councilor Heldmeyer seconded the motion, which passed on the following Roll Call vote:

**For: Councilor Pfeffer; Councilor Wurzbarger; Councilor Bushee;
Councilor Chavez; Councilor Coss; Councilor Heldmeyer; Councilor Lopez;
Councilor Ortiz.**

Against: None.

**CONSIDERATION OF BILL NO. 2003-1: ADOPTION OF
ORDINANCE NO. 2003-5. (Councilor Heldmeyer and Councilor Bushee)
An Ordinance Amending Sections 14-8.11(C), 14-8.11(D), 14-8.11(E),
14-8.11(F), 14-8.11(G) and Article 14-12 SFCC 1987 Relating to the
Inclusionary Zoning Ordinance.**

**CONSIDERATION OF BILL NO. 2003-2: ADOPTION OF
ORDINANCE NO. 2003-6. (Councilor Heldmeyer and Councilor Bushee)
An Ordinance Amending Section 6-4.3 SFCC 1987 Regarding the
Community Development Commission and Chapter 26 SFCC 1987
Regarding the Housing Opportunity Program.**

**a) CONSIDERATION OF RESOLUTION NO. 2003-27.
(Councilor Heldmeyer and Councilor Bushee)
A Resolution Repealing Resolution No. 1999-76 Regarding the
Readoption of the Administrative Procedures for the City of Santa
Fe Housing Opportunity Program (HOP) and Readopting the
Administrative Procedures With Further Amendments.**

**CONSIDERATION OF BILL NO. 2003-3: ADOPTION OF
ORDINANCE NO. 2003-7. (Councilor Heldmeyer and Councilor Bushee)
An Ordinance Amending Sections 14-9.3(C)(4) and 14-12 SFCC 1987
Relating to the Exemption of Capital Impact Fees for Affordable
Housing.**

City HOP Coordinator Linda Hall reported as follows: “These three bills are closely linked to Santa Fe’s continuing efforts to provide affordable housing. The amendments bring the code citations into line with the newly formatted code, expand the applicability of HOP throughout the city, and clarify the definition of a low-priced dwelling unit. The third bill regularizes the City’s means of waiving impact fees for low-priced dwelling units.”

The floor was opened to public comment.

Ann Gorges, a resident of El Seville Apartments, thanked the Council for its consideration in passing these ordinances. She asked the Council to consider moving the percentage of affordable units per project in the BCD to a minimum of 25%. She stated that El Seville will represent the loss of 74 affordable rentals when the Corazon de Santa Fe project is constructed, and she would hope that 25%, or 16 units, would be offered to replace that loss.

This concluded public comment.

**Councilor Lopez moved for approval of Ordinance No. 2003-05.
Councilor Bushee seconded the motion.**

Councilor Pfeffer asked Ms. Hall what the changes would actually be with respect to El Seville, and Ms. Hall responded that there were no changes to the required contributions in the proposed amendments. She said she understood the developers would be offering more than was required, however, and close to what Ms. Gorges had asked.

Ordinance No. 2003-05. was adopted on the following Roll Call vote:

**For: Councilor Wurzburger; Councilor Bushee; Councilor Chavez;
Councilor Coss; Councilor Heldmeyer; Councilor Lopez; Councilor Ortiz;
Councilor Pfeffer.**

Against: None.

**Councilor Bushee moved approval of Ordinance No. 2003-06 and
Resolution No. 2003-27. Councilor Lopez seconded the motion, which
passed on the following Roll Call vote:**

**For: Councilor Bushee; Councilor Chavez; Councilor Coss; Councilor
Heldmeyer; Councilor Lopez; Councilor Ortiz; Councilor Pfeffer; Councilor
Wurzburger.**

Against: None.

**Councilor Lopez moved for approval of Ordinance No. 2003-07.
Councilor Bushee seconded the motion, which passed on the following
Roll Call vote:**

**For: Councilor Chavez; Councilor Coss; Councilor Heldmeyer;
Councilor Lopez; Councilor Ortiz; Councilor Pfeffer; Councilor Wurzburger;
Councilor Bushee.**

Against: None.

***[Note: The Council voted later in the meeting to adopt amendments
[included in the packet] to the Inclusionary Zoning and Capital Impact fee
ordinances, since they were inadvertently omitted from the motions for
approval.]***

CONSIDERATION OF BILL NO. 2003-5: ADOPTION OF ORDINANCE NO. 2003-8. (Councilor Ortiz, Councilor Coss, Councilor Chavez and Councilor Heldmeyer)

An Ordinance Amending Chapter 28 SFCC 1987 Establishing Minimum Wage Requirements for all Business Who Obtain a Business License or Business Registration From the City of Santa Fe Who Employ Ten or More Workers or, in the Case of Non-profit Businesses, Who Employ Twenty-five (25) or More Workers.

City Economic Development planner Steve Whitman noted the following:

- 20% of businesses in Santa Fe County employ 10 or more workers.
- 74.8% of workers are employed by companies with 10 or more employees.
- 39.6% of workers are employed in industries whose average weekly wage is below \$420.
- Retail trade and accommodations and food service employ 60.8% of the workers in the low wage industries. They represent 18% of the total workforce reported.

Mr. Whitman stated that the economic impact of the living wage ordinance was very difficult to predict, but he could offer the following:

- A significant raise in the minimum wage will generally increase incomes for workers at the bottom of the wage scales;
- A single wage earner in Santa Fe County making \$10.50 an hour would still be considered “very low income”;
- Higher wages will apply equally to those who live in Santa Fe and those who commute from elsewhere, so the benefits of the increased wage would apply to all workers whether they live here or not;
- Increased payrolls will result in some higher spending in the community, thus increasing tax revenues to the City;
- Most of the increased wages will probably not be spent in the businesses paying those wages, e.g., hotel workers are unlikely to spend their raises at the local hotels, although food service workers might eat out more often;

- Significant increases in wages has an effect on businesses that they have limited ways of addressing; they cannot always simply raise their prices to cover their increased costs. While it may be a wash for businesses competing for local business if they all increase their wages, businesses that have to compete out of the city — say, competing with businesses from Albuquerque that come up here to do work — would be at a disadvantage. Although the ordinance technically will apply to anyone doing business here, it will be very difficult to enforce, say, on landscape companies or construction companies that come up from Albuquerque. Likewise, if a business is doing a business out of town and not just locally, and is competing on a national or regional level, they could be at a disadvantage. That said, most businesses competing on a national level already are paying what the ordinance would put into place.

- There is a potential for negative impact on low-skill entry-level workers or immigrants with limited language skills. At the \$10.50 level, businesses would be more inclined to hire experienced people rather than inexperienced people, and if there is an issue of language capacity, those workers would be at a disadvantage in the labor market because employers paying \$10.50 would have a higher level of workforce to choose from.

- The ordinance will have an impact on the perception of Santa Fe in terms of its business climate. Most businesses that would move to Santa Fe are not paying low-level wages, so while it may not affect them in that area, it can affect their perception of Santa Fe as a place to do business.

- In the long run, the positive impacts will probably be less than projected, as will the negative impacts, given the high emotional climate surrounding this issue.

[Mr. Whitman's complete report is included as Exhibit "A" to these minutes.]

The floor was opened to public comment.

Mayor Delgado asked for speakers in favor of this item, allowing a one-minute limit per speaker, with five minutes allotted to the "lead off speaker" from each side.

Dr. Robert Pollin

Dr. Pollin, an economist, thanked Councilor Coss for inviting him to this meeting. He said he has done studies on living wage ordinances around the country, including Los Angeles, New Orleans and Santa Monica. He said the living wage movement began in Baltimore in 1995, and there are now about 90 living wage ordinances in different cities throughout the country. He said the Baltimore movement began when religious workers in homeless shelters and

soup kitchens noticed that an increasing number of employed people were using these services with their families.

Dr. Pollin said he had submitted written testimony and would highlight some of the main points.

Dr. Pollin said the minimum wage in 1968, adjusted for inflation, was \$8.15; today, it is \$5.15. He stated that productivity in the U.S. economy has gone up by about 70% during this period while there has been a 35% fall in the absolute value of what somebody can buy with the minimum wage. He pointed out that, had the minimum wage gone up penny for penny with the rate of productivity, the minimum wage today would be \$14.65.

Dr. Pollin spoke to concerns on the so-called law of unintended consequences, i.e., 1) the City is trying to help low wage workers but may end up hurting them by causing unemployment, because businesses would be less willing to hire low wage workers, and 2) that businesses may relocate out of the city.

Dr. Pollin stated that, according to a population survey of the U.S. Government, workers earning between \$5.15 and \$10.50 per hour in the Santa Fe area number about 20,000, or 28% of the population. He said the average age is 34 years and their tenure on the job is 15 years, so these are real jobs and not entry-level jobs or stepping-stones to "some fancy professional career."

Dr. Pollin said that, according to his own calculations, about 33% of families in this area are in poverty and about 40% near poverty. He stated that about 60% of the families that would benefit from a living wage are below a "basic needs threshold."

Dr. Pollin said the cost increase to the average firm, according to his own research, would be about 1% to 2% of their total costs. He stated that these costs could be absorbed "through a 1% to 2% price increase or through small improvements in productivity."

David McGown

Rev. McGown stated that he is a clergyman whose early ministry was with West Virginia coal mining camps and, later, New York City's Lower East Side, with immigrants from more than 20 countries. He stated, "I know the problems of the poor. My master was a rabbi from Nazareth who lived and worked among the poor."

Cuatémoc Figueroa

Mr. Figueroa, administrator of AFSCME Council 18, thanked the Governing Body for its willingness to work positively toward resolution of the many problems facing the hardworking men and women of Santa Fe. He stated that paying a living wage has potential to reduce employee turnover and absenteeism, as well as increase productivity, morale and commitment to the company.

Gloria Mendoza

Ms. Mendoza spoke in favor of the ordinance, noting that the working class people of Santa Fe have “for decades helped businesses flourish, make money and become famous in magazines.... If it wasn’t for the employee, the employer would not be able to continue business in Santa Fe.” *[Ms. Mendoza’s written statement submitted as Exhibit “A.1.”]*

Cailen McTavish

Mr. McTavish said he moved here recently from Portland, Oregon, where the minimum wage is \$6.75. He stated that the Portland economy is healthy and thriving. He said he makes \$2.13 an hour as a server in Santa Fe, plus tips, so takes home \$8 or \$9 an hour which leaves him just enough for groceries and rent. Mr. McTavish promised that he would put his money back into the local economy if this ordinance were passed.

David Thompson

Mr. Thompson, representing the Santa Fe Living Wage Network, submitted a petition endorsing the ordinance, which he said contained the names of 1,500 people. *[Submitted as Exhibit “A.2.”]*

David Walther

Mr. Walther stated that he is a lawyer in Santa Fe with a small firm, which has 10 employees. He pointed out that “labor is not a commodity, and workers have a right to a living wage. A business does not have the right to continue if it cannot pay a living wage.”

Cliff Mills

Mr. Mills reminded Governing Body members that he supported a pay raise for the City Council just two months ago, when he stated publicly that Councilors “are as deserving of a living wage as anyone else in this city. An honest day’s

pay for an honest day's work." He said the pay raise passed with six votes, and he expected the living wage ordinance to pass unanimously.

Marlene Schwaje

Ms. Schwaje, a labor representative who works with teachers and public school employees throughout Northern New Mexico, stated that an employee who is a single earner of a three-person household needs to earn \$7.03 per hour to reach federal poverty guidelines, and a single earning worker in a family of three who earns \$9.14 an hour is eligible for food stamps in New Mexico. She said the social costs of poverty are enormous, resulting in poor school performance, delinquency, crime, and so forth. She urged adoption of the ordinance.

Norm Bideaux

Mr. Bideaux asked the Council to adopt the ordinance. He said speakers have already spoken to the negative effects on people who are forced to work two and three jobs because they cannot afford to live here otherwise. He stated that these people cannot attend to their families nor participate in civil affairs.

Christine Trujillo

Ms. Trujillo, president of the New Mexico Federation of Labor/AFL-CIO, president of the New Mexico Federation of Education Employees, and vice president of the New Mexico Human Rights Coalition, said she has listened to radio ads and read newspaper editorials about this so-called "untested risky scheme that will hurt the economy if you support this increase." She said it is unfortunate that these and other inflammatory comments are being made. She stated that passing this ordinance will be an act of compassion with social justice and human rights in mind.

David Gold

Speaking to the argument against this ordinance that businesses will go elsewhere rather than come to Santa Fe, Mr. Gold said the only businesses that would go elsewhere are those looking for low wages, and those businesses will go to Mexico or Asia, which is a national trend. He said the only businesses that would come here are those attracted to the high quality of life here, and they would be willing to pay more money.

Addressing the argument that children will drop out of school to take advantage of the \$8.50 an hour wage, Mr. Gold said he has coached basketball at Agua Fria Elementary, and to get kids to stay in school means giving them a

good job when they leave. He said having good jobs in Santa Fe is the best incentive for kids to stay in school.

Gene Valdez

Mr. Valdez, representing St. Francis Cathedral as chairperson of their Peace and Social Justice Committee, St. Vincent de Paul Society and a member of the Parish Partnership, a collaboration among St. Anne's, the Cathedral, Cristo Rey and Our Lady of Guadalupe, said almost 6,000 families in Santa Fe call these four parishes their spiritual home. He stated that everyone who works full time has the right to sufficient wages to provide his/her family with the basic necessities. He said a living wage is "a moral issue and a question of social justice, and no study, no data, no information will ever prove otherwise." He urged support of the ordinance.

Anthony Trujillo

Mr. Trujillo, a deacon of Our Lady of Guadalupe Parish and a member of the Santa Fe Deanery and Parish Partnership, said that "as clergy we wholeheartedly support this proposition. We deal oftentimes with the people that are the less fortunate and those that aren't able to make the kind of wages that they deserve."

Frank Montaña

Mr. Montaña, a former City Councilor, said, "Tonight you have an opportunity to make a bold and significant decision that will help the working class citizens of this community who have made this community. Anyone who works a 40 hour week deserves to be able to purchase a home in this town, deserves to be able to purchase a car and all the necessities of life." Instead, he said, people are working two and three jobs here to make ends meet.

Kathy Holian

Ms. Holian, a county resident, said she was not interested in paying artificially low prices for things that are based on low wages for hardworking people. She said society subsidizes low wage earners one way or another anyway, in that it then has to help them with their food, housing, medical care and so forth. She commented, "Wouldn't it be better for us to just pay a living wage to people and give them the satisfaction of feeling that they can take care of themselves?"

Maria Cristina Lopez

Ms. Lopez, chair of Somos Un Pueblo Unido, an immigrants rights organization that has been in existence for eight years with a membership of 400,

stated that a recurring problem in Santa Fe is low wages. She stated that the immigrant community is very vulnerable. She said Somos supports the living wage ordinance because it would help the immigrant community have a better life, although obviously it would not solve all of that community's problems.

Michael Collins

Mr. Collins, a retired State employee, said he wished to speak for the people who could not be here tonight because they are working second or third jobs, or are at home with their children because they cannot afford a babysitter. He stated that New Mexico is the poorest state in the U.S., and people should not go into business here if they cannot afford to pay a decent wage.

Anne Condon

Ms. Condon said she is a small business owner, and thanked the Council for educating her that it is important she pay people better than she thought she would have to, whether that is technical workers or people who file or run errands and answer the phone. She stated that she will be able to do this by paying herself a little bit less or charging a little bit more for her services.

Kenneth Pin

Mr. Pin, a member of the Living Wage Roundtable, urged adoption of the ordinance so that working parents can spend more time at home with their kids. He stated that raising people's wages will allow them to spend more money and help bolster the local economy.

Todd McElroy

Mr. McElroy, vice chairman of the Santa Fe County Democratic Party, stated that the Central Committee of the Democratic Party of Santa Fe County recently unanimously adopted a resolution supporting the living wage amendments before the Council. He asked the City Council to support the ordinance.

Jordan Merrill

Ms. Merrill, a student at Santa Fe High School, stated that many students get after-school jobs to help support themselves and their families, as well as to save money for college. She said the living wage ordinance would allow these students to work fewer hours, thus protecting their school schedules while maintaining the responsibility of the job. She stated that the ordinance would not

encourage them to drop out of school to work because the earning potential of those with high school diplomas or college degrees would greatly exceed the proposed living wage.

Melissa Pfeffer

Ms. Pfeffer, a graduate student at UNM, stated that low wage employees are essential to the support of a college or university because they cook the food, take away the garbage, and do the things that makes society work. She said these people deserve a living wage.

Hank Hughes

Mr. Hughes, a member of the New Mexico Coalition to End Homelessness, stated that, when he was director of St. Elizabeth Shelter a few years ago, that organization implemented an \$8.50 minimum wage at the shelter, and the only negative consequence was that he had to pay himself a little less.

Carolyn Sigstedt

Ms. Sigstedt, a business owner in Santa Fe, supported the living wage. She said, "Something's got to change in how we think about policy before we'll see more equitable distribution of our community's wealth. We all know how difficult it is to live here...a living wage is a solid, down-to-earth issue understood by everyone and supported by so many good people in our community. This ordinance is simply fair to working people."

Catherine Magdalena

Ms. Magdalena read from the Tao De Ching, translated by Stephen Mitchell, written over 2,000 years ago: "The great way is easy, yet people prefer the side paths. Be aware when things are out of balance. Stay centered within the Tao. When rich speculators prosper while farmers lose their land, when government officials spend money on weapons instead of cures, when the upper class is extravagant and irresponsible while the poor have nowhere to turn, all this is robbery and chaos. It is not in keeping with the Tao."

Unidentified

This person, who did not identify herself, said she thought it a "pity" that people have to petition a governmental body for a living wage.

Ed

Mr. _____, a sophomore at St. John's College, said he believed in the power of education for the betterment of people and for ensuring a strong future in this community. He stated that it is through education that people are able to overcome their limitations and not through the private profit of a few. He said he has struggled to earn enough money to pay for college and live in Santa Fe, and has lacked permanent housing for a year. He stated that he has also gone without food for periods of time. He said he still did not know if he would be able to come back to school next year.

Carol Raymond

Ms. Raymond said she helps manage Santa Fe Southern Railway, which pays substantially above minimum wage because it keeps turnover low, training costs low, and maintain a stable employment environment. Addressing compaction concerns, Ms. Raymond said Santa Fe Southern faced that issue recently, when it had to make the decision to raise its lower level employees because they were having problems maintaining them. She stated that she did not believe it to be a real phenomenon.

Paul Sahn

Mr. Sahn [spelling unknown], a lawyer at the Brennan Center for Justice at NYU School of Law, stated that the Center is a public interest law and research center that specializes in working with federal, state and local lawmakers on innovative local policies. He stated that the Center is the lead legal shop nationally working with communities on living wage policies, and has been advising members of the City Council on this policy.

Mr. Sahn said he wished to address two issues: the legality of the proposal; and the litigation defense of it. He stated, "It has been suggested that the policy would not be legal if enacted. That is not an accurate representation of New Mexico law. We've outlined this in detail in the analysis we've shared with you. The letter in today's *New Mexican* responding to Sunday's editorial lays it out also. Briefly, that analysis ignores the statutory general welfare power that's been granted New Mexico cities by the Legislature."

On the litigation issue, Mr. Sahn noted that the Brennan Center has pledged to assist the City in defending the living wage proposal on a pro bono basis if it is enacted.

Rick Johnston

Mr. Johnston, a plumber by trade, representing the 14 building trades unions in New Mexico, said they support the living wage ordinance. He said, "This is not a risky scheme; it's the right thing to do."

Chuck Schuman

Mr. Schuman asked the Council to "please consider the people that can't be here to represent themselves, the ones that need this the most, the ones that are working two and three jobs, the ones that are suffering from low wages and having to pay the high cost of living in Santa Fe."

Mr. Schuman questioned why the business community "is so willing to spend hundreds of thousands of dollars, possibly millions, to litigate and fight this when it would be cheaper to implement it?"

Robin Saylor

Ms. Saylor, an employee of the Santa Fe Public Schools, said she has been working in Santa Fe for ten years and is supporting two children on her own. She stated that her family has to go without food to pay rent and pay auto insurance. She said the living wage ordinance would allow her to support her children with dignity.

Jo Kenney

Ms. Kenney said she works with the Coalition for Equality in New Mexico, a nonprofit located here. She stated, "I'm embarrassed that our lowest wage is \$12 an hour." She asked the Council to be a leader in the community "and take care of the people who are most risk — to take a risk on the side of compassion and justice."

Rev. Holly Beaumont

Ms. Beaumont, project director with the New Mexico Conference of Churches, which supports the living wage on the state level, said she is also a small business owner and realizes the risks that all businesses will face when the ordinance is adopted. She stated that the ordinance is nonetheless long overdue. She said, "Justice is never cheap; it has a cost, but it is also its own reward."

John Otter

Mr. Otter stated that the Green Party of Santa Fe supports the living wage. He said the Party has 3,000 registrants in Santa Fe County, “and believes that an economic system is successful only if it offers meaningful work with dignity while paying a living wage which reflects the real value of the person’s work.”

Mr. Otter stated that a living wage will allow people to be at home with their families, will reduce highway congestion and pollution, and have other indirect benefits to society.

Mara Lloyd

Ms. Lloyd, a waitress, appeared on behalf of the workers in Santa Fe who could not be present tonight because they are single parents or are working. Ms. Lloyd stated that many restaurant workers are Spanish-speaking and have been excluded from tonight’s proceedings because they do not speak English, and also because of socioeconomic barriers. She stated, “We’re not asking for a handout. We’re asking for a living wage. Please remember the people like me who could not be here tonight.”

Ms. Lloyd stated that she works at least 40 hours per week, and pays \$250 a month rent, and her paycheck for two weeks does not cover her rent. She said she lives in a trailer with two other people and has a tiny bedroom with just enough room for her bed.

Bill Stanton

Mr. Stanton, a resident of District 3, urged support of the ordinance. He said, “You have a chance tonight to put yourselves and our city on the right side of history.”

Virginia Miller

Ms. Miller, a resident of District 1, urged the Council to consider, in voting tonight, the working poor. She stated that a living wage will lessen the divide that already exists among the citizens and will nurture the quality of life and health of the community.

Bonnie Greathouse

Ms. Greathouse, a member of ACORN, stated that ACORN has supported a living wage in 23 states, and was victorious on July 27 in a New York county, where its campaign resulted in a living wage being passed by the Republican-controlled county legislature.

Ann Egan

Ms. Egan, a consultant in Santa Fe and a small business owner, said her concern is the “reverse bell curve that we have in Santa Fe, where we have a large group of working poor, a small middle class, and a large group of wealthy.” She urged the Council to support the ordinance. She stated that she began paying her front line staff \$10-\$12 an hour about ten years ago.

Justine Burns

Ms. Burns, an economist with the Santa Fe Institute, said she has done research with Professor Bill Pollin, who spoke earlier this evening in support of the ordinance.

Ms. Burns reminded the Council that “the overwhelming bulk of evidence indicates that the cost increases that we’re talking about are really very, very small — on the order of one to two percent — in return for which we’re going to have a massive impact on the lives of hardworking individuals.”

Ms. Burns said she has used hotel rooms here, “and if I had to make a choice between paying \$90 for a hotel room or \$100 if I could be guaranteed that the \$100 room meant that workers were being paid a living wage, I would choose the \$100 room any day of the week.”

Alia Munn

Ms. Munn said she owns a small re-sale clothing shop on Second Street. She said she and her husband have had the business for three years and do not yet pay themselves. She said they pay between \$8 and \$10 an hour for their help, however, because “we cannot afford not to do that, and that is a small amount of money, in my estimation.”

Ms. Munn stated that, six years ago, she worked for the Santa Fe Community Guidance Center as a program coordinator, working with seriously mentally disabled adults. She said she managed five people and was paid \$10 an hour.

Suzanne Goetz

Ms. Goetz, a member of the Living Wage Network and the Alliance for Affordable Housing, read a statement by Rep. Max Coll, which said, “We trail behind the other states because of the number of children in poverty. We must pay their parent or parents enough to overcome this abominable fact. Also, we are next to last in adults in poverty. A living wage will help target the problem.”

Ms. Goetz said she has lived in Santa Fe for 19 years, and her rent has gone up 85% and her income only 25% in that time, yet she makes more than what is being proposed in the ordinance. She stated that she did her New Mexico income taxes over the weekend, and qualifies for a low-income rebate. She said she also qualifies to be a Housing Opportunity Program client.

Ms. Goetz stated that having one's own business is part of the American dream, but does not entitle one to have a business "if it's on the backs of your employees and you expect the rest of the world to support them."

Laura Lienack

Ms. Lienack, president of the National Education Association of Santa Fe, representing teachers, bus drivers, cafeteria workers, instructional assistants, secretaries and security guards, said she was told at Capital High School today "that one of our seniors decided to drop out rather than graduate in three more months because he needed to get a job. Perhaps if his parents earned a living wage, he wouldn't need to leave school." She commented, "Businesses or institutions that will not or cannot afford to pay a living wage to their employees aren't businesses, they're plantations."

Laurie Knight

Ms. Knight, a lawyer in Santa Fe, said this ordinance is part of a civil rights movement. She stated that the growing divide in Santa Fe scares her. She urged support of the ordinance as an investment in the community.

Eduardo Holguin

Mr. Holguin, president of the National Education Association of New Mexico, stated that the people who will be most affected by this ordinance "are the parents of the children we have in our schools. These are the same parents that we ask to take a more direct hand in their children's education, yet they don't have the time because they are doing a second or third job."

Unidentified

A woman who did not identify herself said she is the mother of a four year old, and she and her husband have been small business owners for about ten years, and have committed to paying their employees a living wage. She said she did an informal poll of citizens and was happily surprised to find that 88% were in favor of the ordinance, 10% unsure, and only 3% opposed.

Lisa Adler

Ms. Adler stated that, in this era of globalization, “communities are pitted against each other in a race to the bottom. Can’t we get out of that race? Can’t we in the City Different offer an alternative?” She implored the Council to “provide a path to something different.”

Bruce Golub

Dr. Golub, a family physician, spoke in support of the ordinance.

Ron Vourhees

Mr. Vourhees stated that businesses can prosper while paying their employees a living wage, and urged adoption of the ordinance.

Leah Morton

Dr. Morton, a physician, said she and her husband have a small medical practice. She questioned the wisdom of encouraging more “big box” stores and Wal-Marts to be in the community to undermine small businesses, and which offer less than minimum wage.

Dennis Martinez

Mr. Martinez stated that the price of everything is going up, and he thought the living wage should also go up. He said this is a democracy, and he thought the majority of the residents here supported a living wage.

Pat Chavez

Mr. Chavez, co-chair of the Living Wage Roundtable, said representatives on both sides of this issue agreed that \$8.50 an hour was not a living wage.

Mr. Chavez endorsed an 18-month study, which was in one of the amendments to be proposed tonight. He said this would give the City a baseline to work from and allow a good decision.

Margaret Card

Ms. Card, an attorney at New Mexico Legal Aid, said she spends her day with people living in poverty, and spends her day getting public benefits for them because they cannot live on their wages.

Ms. Card stated that there is a tradeoff between empowering people to live their own lives and having the community aid them through public assistance.

Oshimon Janni [spelling unknown]

Ms. Janni said, “I rarely make this offer, but if you want to give me a job that I’m willing to do for \$10 an hour for 18 months, you can study me and the effects it has on my life.”

Ms. Janni said she lives in extreme poverty. She stated, “I think that people earning \$8 an hour are not voting against this. And if you’re voting against it, you might as well come up and spit in my face. I have an art degree from Dartmouth College, I have taken care of the children of lawyers and doctors, and I’ve taken care of the children of active alcoholics. I’m willing to raise a child at \$400 a month, and this country told me I couldn’t and never gave me a much better option. There are jobs for \$50 an hour I would never take. I do not own a car, I pay less than \$500 a month for rent, and I still can barely keep my head above water.”

Unidentified

A woman who did not identify herself stated that she is a Chinese immigrant, and the generosity of this country has enabled her to come here for a higher education and to live in Santa Fe and enjoy American freedom. She stated that she hoped the business owners in Santa Fe would be willing to sacrifice a little to help the poor working class of Santa Fe “for the sake of the great American tradition and to narrow the gap between the rich and the poor.”

Leonard Helman

Rabbi Helman stated that this ordinance will not hurt the low paid workers of Santa Fe, nor will it hurt Santa Fe’s economy, “nor will it hurt the sense of justice and righteousness which we feel as religious leaders, and it will certainly benefit the economy of Santa Fe.” He urged support.

Carter Bundy

Mr. Bundy, representing AFSCME, stated that this ordinance represents the “scary and unknown” for its opponents, yet almost every single piece of progressive legislation in U.S. history — child labor laws, environmental laws, safety laws, minimum wage and the Family Medical and Leave Act — have met with the same economic arguments, “and they’ve all proven to be false.” He also stated that many countries with wage disparities between the very poor and the super wealthy “are out of control, and almost every single business owner in those countries would gladly trade places for our system of capitalism.”

Mark Estrig

Mr. Estrig stated that he lives in Albuquerque and works in Santa Fe for the Communication Workers of America. He said the union represents Qwest employees, who have won strong contracts and high wages over a period of 35 to 40 years by making their voices heard through their employer. He urged the Council to adopt a living wage because it would mean that “you, as elected leaders of this community, have also heard the voices and responded to the needs of the disadvantaged of Santa Fe.”

Stan Rosen

Dr. Rosen, a retired professor of labor and industrial relations and a labor historian, quoted Franklin Delano Roosevelt saying in 1994: “It is our duty now to begin to lay the plans and determine the strategy for a lasting peace and the establishment of an American standard of living higher than we have ever known before. We cannot be content, no matter how high that general standard of living may be, if some faction of our people, whether it be one-third, one-fifth, or one-tenth, is ill-fed, ill-clothed, ill-housed and insecure.”

Susan Young

Ms. Young, a seamstress and a single mother, said she and her friends are all college educated, and all of their children are on Medicaid. She stated, “None of us has a vehicle that’s less than ten years old... We cannot afford to live and stay in Santa Fe. It is very difficult to be here.”

Celia Reeky

Ms. Reeky said she is a native Santa Fean and works for two Santa Feans who have a company with 13 employees. She stated that she started working there at \$8.50 an hour, and the owners cannot afford to pay her more than that. She stated, “And I know that if they can do it and keep their business open in Santa Fe, then other people can do it.”

Ms. Reeky said she is the only member of her peer group who is from Santa Fe, college educated, and has chosen to return here — the rest have left Santa Fe and are not planning to return.

Lloyd Beebe

Mr. Beebe, with the International Brotherhood of Electrical Workers, stated that the Council “has a unique opportunity to lead the working class community out of the depths of poverty... or at least get started in that direction.”

Mark Marquez

Mr. Marquez, president of the Santa Fe Firefighters Association, spoke in support of the bill. He pointed out, "This City has already passed a similar bill for the City employees.... It has already taken the initiative to do this."

Mr. Marquez stated that, if the economists are right in saying that raising the minimum wage will generate more money in this community, then the City needs to address the housing market so people can stay here. He said that half the membership in the Firefighters union lives in Rio Rancho, a third live in the county, and he is one of the few who lives in the city.

Morty Simon

Mr. Simon, a lawyer in Santa Fe for 31 years, and recently a teacher, pointed out that "this problem is not going away, this poverty in the midst of wealth. Thirty years ago this town was a pretty egalitarian place, but so was the country. The United States over the last twenty years has become the number one country of disparity of wealth and income in the Western world. New Mexico is third in disparity of wealth in the country."

Mr. Simon said the opposition to this ordinance has suggested that the City let the free market reign, but that hasn't worked over the last 25 years. He said the second argument against the ordinance is that people get an education so they can better themselves. He pointed out, though, that Santa Fe has created a tourist economy, i.e., if a chambermaid has a college degree, they will not be paid anything more.

Susan Pratt

Ms. Pratt said she has lived in Santa Fe for 13 years and is a master's level clinician. She stated that, when she first moved here, "I had eight jobs, three of them were volunteer and the other five were paid, and it still wasn't enough." She stated that adopting this ordinance "will make a lot of people really happy and a lot of families really happy."

Tim Pemberton

Mr. Pemberton said he worked in restaurants for 20 years and had his own restaurant, and is also a mathematician. He stated, "The numbers are easy. In a restaurant, if you were to raise the wage to \$8.50, that's roughly a 50% increase. That's not all going to go into the cost of buying a meal in a restaurant, because not all of the people are going to get a 50% increase. Maybe half of them. Not all the wait staff is going to get that increase. So the real increase is maybe 25% or 30% of the labor. But labor is not the whole cost in a restaurant; it's only, say, 33%. So if labor costs go up 25% in a restaurant, and the labor cost is 33% of

their costs, it's less than 10% of their costs are going up." He said this means someone who pays \$10 for an entrée will pay \$11, which he thought reasonable and worth considering.

Lorenzo Portillo

Mr. Portillo, a member of AFSCME 3999, City of Santa Fe, pointed out that Santa Fe has high prices not just for gas, but also for groceries, rent, housing, and so forth. He stated that the Council is in a position to make a lot of people happy. He said, "Do what's in the heart, do what is right."

Stephen Carrillo

Mr. Carrillo said the ads run by the People for Free Enterprise "are disgraceful." He said the ads in the newspapers and on the radio "are based on fear, ignorance...." He stated that raising the minimum wage here will increase the quality of life of workers in Santa Fe, and will not result in the loss of jobs because employers will still need the same number of workers as they did prior to adoption of the ordinance.

Charles Powell

Mr. Powell, treasurer of the Labor Party of New Mexico, spoke in support of this ordinance. He said the Labor Party of NM "is in favor of single payer universal healthcare, universal higher education and living wages. Since improving the lives of workers is part of this organization's mission, we are very pleased with the progress that the Santa Fe Living Wage Network and the Santa Fe City Council has made toward improving the pay of Santa Fe workers."

Matthew Taglerina

Mr. Taglerina [spelling unknown], a student at St. John's College, said he found it hard to imagine a family of four in Santa Fe living on between \$82.40 and \$98.40 a day: "That's two people on a combined weekly income of between \$412 and \$492, and that's gross income. Most parents who are on today's minimum wage are forced to make painful decisions with their money, like spending it on gas, food and rent, but sacrificing necessary healthcare, health insurance, licensed daycare, and see little hope for ever owning a home. The truth is, it is possible for Santa Fe businesses to improve with this living wage ordinance. When people make more money, they spend more money, which circulates throughout the economy."

Jim Meyer

Mr. Meyer, a business owner in Santa Fe, said he has been concerned, since this City Council was sworn in, “over the increasingly divisive and shrill and narrow minded positions that people have taken.” He stated that he found it “amusing when Karen Heldmeyer urged Carol Robertson Lopez that the roundtable for the living wage should include people that were open minded to a living wage. I was in attendance at the Finance Committee meeting when Karen Heldmeyer said she would never accept a committee about the convention center that didn’t have people opposing it.

“So I support this ordinance, and I suggest that you pass it. But also, do something for the business owners that need to make some money to pay for this, and give us a decent conference center.”

This concluded comments in favor of the ordinance.

[Note: 73 people spoke in favor of the ordinance.]

People in opposition to the ordinance were asked to come forward. Mayor Delgado allotted seven minutes to the leadoff speaker, which was equal to the time spent by Dr. Robert Pollin in his opening discussion. He allotted one minute to each speaker to follow.

Kristin Lopez Eastlick

Ms. Eastlick, director of policy analysis for the Employment Policies Institute in Washington, D.C., stated that Dr. Pollin did not speak in enough detail on the unintended consequences of living wage ordinances. She stated, “The biggest one is that higher quality workers are going to take the jobs, replace low skilled workers in the job market. I don’t think it’s a policy you’re looking for that is going to marginalize the most vulnerable workers.”

Ms. Eastlick stated that there has been discussion that people from outside of Santa Fe, some with higher skill levels, will come in and gradually replace the low skilled workers — people who today are having a hard time earning \$8, \$9 or \$10 an hour.

Ms. Eastlick commented, “I’m happy that there are businesses that can pay \$10 an hour. But I’m happier that, when employees are fired from those jobs, they have other places that they can go to seek employment.”

Ms. Eastlick pointed out that minimum wage hikes do not take place in a vacuum: “If by triggering a wage hike it creates a situation where a person earning enough to get Medicaid or earned income tax credits, or the long list of

benefits that an earlier speaker detailed — if raising their wage so that they can no longer be eligible for those programs, you have not affected their income. That means you have made it more difficult for them to survive, and they are not able to compete with the people who have higher skills.”

Ms. Eastlick stated that, within a year of starting a minimum wage job, about 65% of that workforce is no longer earning the minimum wage. She said, “What about those 35%? We’re back to skill level. We’re back to problems that they might have with literacy or speaking English. Why don’t you tailor a policy specifically for those people and not affect their ability to enter into the workforce?”

Ms. Eastlick pointed out that the minimum wage was never designed to be “an anti-poverty tool.” She said the best anti-poverty tool “is having a job... because you can stay in the workforce and hopefully be able to access the public assistance benefits that we as a society have agreed should be paid to bring people up to the poverty level. But when 25% of the people who will be affected by this are the sole earners trying to support children, and 75% do not fall into that category, shouldn’t you start with that core group of people and look at what their specific problems are — housing, transportation, things like that — versus raising a wage that will alter their ability to enter into the job market?”

Ms. Eastlick said the City should do something that directly affects this low income core group by promoting an earned income tax credit through the Legislature, by working with the IRS to see who is already means-tested to receive those benefits, and bringing those people up to the poverty level and at the same time encouraging employers to hire them. She stated, “That’s the biggest thing that you can do for that crowd of people. You allow them to earn the skills that they will need to take them through and earn higher wages and get better jobs and work their way out of poverty like so many have.”

Ms. Eastlick stated that, with seven of eight families in poverty without a job, “I have a hard time believing that, by increasing the minimum wage, you’re going to make a dent in poverty.”

Ms. Eastlick said she hoped the Council would reconsider adoption of this ordinance “and not alter the local labor market in a way that makes the most vulnerable of your citizens the least and the last to be employed.”

Manny Ortiz

Mr. Ortiz stated, “The private workplace has been improving pay according to the productivity of the employee. The employer cannot be parent or guardian for an unproductive employee.... Many get their job and almost immediately go into idle mode. How many times have you been in an office or a store and had to

look around...trying to get someone's attention for service?" *[Mr. Ortiz's written statement included herewith as Exhibit "A.3."]*

Bob Powell

Mr. Powell, a small business owner in Santa Fe since 1973, when he had Swensen's Ice Cream Shop, said he has also owned Taos Furniture, the Winery and Group Powell One, a staffing company providing temporary and permanent jobs. He stated that, last year, Group Powell One filled over 600 jobs and provided employment for several hundred people, many of whom could only work as temporaries. He stated that temporary staffing is an important part of the employment picture nationwide, and Santa Fe is no exception. He questioned whether the six local staffing companies have been considered in the proposed minimum wage ordinance, "and if so, where can I read about it? Hundreds of jobs will be affected in our businesses alone."

Mr. Powell said local staffing businesses could lose, if this ordinance is passed, 25% of the roughly 2,000 jobs that are being handled by staffing companies.

Loretta Martin

Ms. Martin, a small business owner in Santa Fe, stated that she has invested all of her savings in this business, and has moved into a smaller house so she can afford to own the business. She stated that many small business owners, including her, "are part of the working poor." She said she pays her employees more than the proposed living wage because they earn it by showing up on time and providing exceptional value to her customers. She stated that, in the last two years, she has hired people "who couldn't find the tab key on the keyboard after three days, people who quit showing up after a week, sat down at every opportunity." She commented, "I would gladly hire someone if I could find someone who had skills and a strong work ethic."

Cordell Hull

Mr. Hull, owner of a small business in Santa Fe, spoke against the proposed wage increase. He challenged the 1% to 2% increase in cost projected. He said his business would be affected by at least 15%.

Mr. Hull said the business owner or manager should have the option of giving their employees an increase through a merit system.

Beth Draiscol

Ms. Draiscol, managing owner of Zia Diner, said she employs 55-65 people. She stated, "I pay way above minimum wage at this point. My average kitchen hourly wage, not including any management, is \$9.60 an hour. My business would survive this increase, but in order to compensate for not having an entry level at \$6.50 or \$7.50, I would eliminate 8-10% of my current staff. Those would be the lower paid employees." She said she would also stop hiring teenagers and first-time workers because she would not be paying them \$8.50 an hour without prior experience. She stated that she would also raise her prices.

Ms. Draiscol said she was a single mother living as a waitress 20 years ago, so understood the economic situation in Santa Fe, "but to come to the small business community instead of examining affordable housing, healthcare and education is shortsighted and unfair."

Jill Markstein

Ms. Markstein, a co-owner of the Marketplace Natural Grocery, said her store would be at a great disadvantage if this ordinance passed compared to large business. She stated that the Marketplace starts people at \$8 and that goes up to over \$20. She said they offer health insurance and have an EAP program. She stated that they never lay people off at the top; and when times are tough, they do not lay off their longtime employees, do not cut benefits, and do not cut hours. She stated that her store has not raised its prices in years, and if it has to do so, it will not be able to compete with large businesses that pay a lot less for their product, and are also subsidized by having many stores.

Unidentified

A man who did not identify himself said he has been in Santa Fe 26 years in business, and warned that the ordinance would create a domino effect. He said rents for businesses have gone up and are already the highest in the country.

Judith "Doc" Sedlow

Ms. Sedlow, co-owner of the Marketplace Natural Grocery, said the Marketplace has been in business in Santa Fe for more than 20 years and has competed with Wild Oats and Whole Foods and has succeeded thanks to the community's support of a locally owned business. She stated that the Marketplace does not enjoy the economies of scale that the chain stores do: "We pay more for the same product and we charge less, because we want people to be able to afford to eat natural foods. We think it's a good thing. If this ordinance were in effect today, my payroll today would have been about \$5,000 higher than it was, and all the other expenses that go along with it, like Worker's

Comp and other insurances would also be included in that, so the \$5,000 would have been way more than that.”

Buddy Roybal

Mr. Roybal, owner of Coronado Paint and Decorating Center, said he employs 23 people full time and provides work for 30 subcontractors. He stated that his employees have medical insurance, a profit sharing plan and the business strives to pay a competitive wage. He said all of his employees receive more than \$8.50 an hour. He stressed, “Businesses that can, pay their employees a living wage. Don’t take this right away from us.” He expressed concern that his business might be forced to lay off people, cut benefits and raise prices to the point that they will no longer be competitive with the Albuquerque market. He stated that this ordinance will actually help the Albuquerque economy while hurting Santa Fe’s economy.

Peter Komis

Mr. Komis stated that increasing the minimum wage on a national level is a good thing, but increasing it only in Santa Fe will create an inequity in economics.

Alan Austin

Mr. Austin, president of New Mexico Bank and Trust, submitted a statement from eight financial institutions in Santa Fe expressing concerns about the proposed ordinance. He stated that they believed that many small businesses, nonprofits and their employees could be negatively impacted. He pointed out that many small businesses and nonprofits in Santa Fe are facing financial hardship in an uncertain economy. He said a study should be commissioned to gauge the ordinance’s potential impacts on the economy.

Mr. Austin also stated that another potential negative impact could be reduced gross receipts tax collections caused by businesses closing as a result of facing higher costs. *[Statement submitted herewith as Exhibit “A.4.”]*

Representative of Santa Fe BMW

An unidentified person, representing Michael Houx, president of Santa Fe BMW, submitted a written statement from Mr. Houx expressing concern that the ordinance would create a ripple effect on his more experienced and trained employees. Mr. Houx stated in his letter that he would have to reduce his personnel to stay within budget. *[Letter submitted herewith as Exhibit “A.5.”]*

Ray Martinez

Mr. Martinez, an economist with the State Department of Finance and Administration, Local Government Division, asked the Council to table this ordinance for consideration at a later date when the national economic outlook is better. He stated that he did not believe, as a professional, in setting an artificial minimum wage rate in a municipality of this size.

Michael Chapman

Mr. Chapman said his family has been in business in Santa Fe for 37 years, and their average employee has been with them over 20 years. He stated that he thought it “abominable and ridiculous” for some people to suggest that employees in Santa Fe are “slaves.”

Mr. Chapman said the Council has no right or responsibility to come between him and his employees, and to take their bargaining rights with him away. He said, “Shame on you for considering this.”

Mr. Chapman stated that he is past chairman of the Santa Fe Business Incubator, and while some people have said this ordinance will not affect startups, there are several new businesses with more than ten employees and this will affect them.

Ed Tinsley

Mr. Tinsley, president of a restaurant chain that employs approximately 1,000 people, said Santa Fe led the job growth market in New Mexico in 2000, and 39% of those private sector jobs were directly related to the restaurant industry. He stated that this ordinance will have a domino effect, extending to the contractor who builds the restaurant, service providers such as plumbers and electricians, and the tax base. He urged the Council to think globally. He said his restaurant chain will not locate in Santa Fe if the ordinance is passed.

Carol White

Ms. White, representing the New Mexico Restaurant Association, stated that some of the membership will leave Santa Fe because “they can’t do business in this atmosphere,” and others will have to cut jobs and/or raise their prices. She stated that raising a wage from \$5.15 to \$10.50 is a 50% increase; furthermore, the ordinance does not consider the issue of compaction.

Ms. White stated that the national economy is very unstable given the world situation with Iraq and North Korea, and so this is not the time to pass a living wage ordinance in Santa Fe.

Florence Armijo

Ms. Armijo stated that she has had a restaurant for 38 years, and most of her employees, except for two teenagers, are receiving the proposed minimum wage or considerably more. She said all of her \$8.50 employees will want \$10.50, and her \$10.50 employees will want \$12 or \$13, and her \$14 cooks will want \$16. She stated that her \$25,000 managers will want \$40,000 or \$50,000. She comment, "I can't charge \$25 for an enchilada, believe me."

Mike Maxwell

Mr. Maxwell, regional director of Furr's Restaurant Group in New Mexico, questioned, "Where will this end?" He said he has heard suggestions tonight that the Council should also consider rent control.

Mr. Maxwell pointed out that this is a free enterprise system. He said he started out at \$1.60 an hour 29 years ago and still works for the same company, and so is living proof that the system works.

Mr. Maxwell stated that the impact on Furr's restaurant in Santa Fe would be about \$8,000 a week, or almost \$500,000 annually in added labor expenses, including Worker's Comp, insurance, etc.

Tony Tapia

Mr. Tapia, owner of a small business in Santa Fe, said this ordinance will hurt his business.

Mike Tapia

Mr. Tapia stated that, if his business has to increase its prices 2%, it will not be able to compete with the bigger stores in New Mexico. He said, "I cannot even compete with the City bids, because they cut their prices. And if I have to lay off my employees just to keep prices down, that's what's going to happen." He said his employees work their way up in his company, and are paid what they deserve to be paid.

Kurt Sommer

Mr. Sommer said he was "shocked" to read in the newspaper that the City Council thinks there's "only a fifty-fifty legal shot whether or not this'll be legal."

He questioned the idea of “making Santa Fe and all its employees and employers a social science experiment.”

Mr. Sommer stated that, as a lawyer, he “vehemently disagreed” with the legal opinion received that said the Constitution would allow this ordinance to stand. He said State law prohibits this as well, in his opinion.

Sandy Johnson

Ms. Johnson, owner of the Trailer Ranch on Cerrillos Road, stated that the Trailer Ranch has a large senior population on a fixed incomes, and “they cannot afford this trickle down.” He said they will end up paying more for food and utilities. She urged, “Please keep this in mind. I feel like this mandate is not a benefit to Santa Fe. It’s only going to hurt us.”

Patricia Murray

Ms. Murray said she was surprised that this issue has gone this far; since she thought it the City Council should be focusing on water issues and public works issues.

Ms. Murray asked the Council to seriously look into an economic impact study by a neutral organization before voting on this ordinance.

Lew Shapiro

Mr. Shapiro, owner of Capital City Cab and Sandia Shuttle, and a member of the former Living Wage Roundtable, suggested that the Council “not take a ready, fire, aim approach.” He commented, “If you must pass something, why not consider something much more moderate while you pursue a study, please?”

Maurice Zeck

Mr. Zeck said he has been in the restaurant business most of his life. He questioned how the restaurant industry in Santa Fe, since it has reached a threshold in terms of pricing, will be able to raise it prices another 10% or 15% to cover the costs of this ordinance. He stated that it will also make it impossible for restaurants to pay for the capital they have borrowed to open their businesses.

Jim Weyhrauch

Mr. Weyhrauch, CEO of Nambé Mills, submitted a written statement objecting to the ordinance. *[Submitted with these minutes as Exhibit “A.6.”]*

Mr. Weyhrauch said Nambé Mills has been in Santa Fe area for more than 50 years with 200 employees. He said they have a \$6+ million payroll and pay another \$1.5 million in payroll taxes; health benefits and Worker's Comp insurance.

Mr. Weyhrauch said Nambé Mills contributes more than \$50,000 annually to charities and City projects.

Mr. Weyhrauch stated that increasing wages to \$8.50 "won't cripple us — it's the compaction, the 25% additional costs of health benefits and Worker's Comp."

Glenn Schiffbauer

Mr. Schiffbauer said he has a small business in downtown Santa Fe and has only two part time employees whom he pays \$9 an hour to start based on certain training and skills. He stated that he has been told he will not be impacted by the ordinance, but at some point could lose his employees if they seek jobs elsewhere.

Mr. Schiffbauer suggested that the City undertake a study to look at the ordinance's overall impact, such as on people in the county.

Carolyn Lee

Ms. Lee said she has been told that her businesses, which are small inns, would not be impacted because she has fewer than ten employees at each inn — while she pays \$8.50/hour entry level wages for housekeepers, she was very concerned about the \$9.50 and \$10.50 levels. She stated that there will be tremendous upward pressure on all businesses in town "because why work at my inn when you can get \$10.50 an hour at Wal-Mart?"

Ms. Lee said the larger businesses in town probably do have the ability to pay \$9.50 or \$10.50 an hour, but she cannot. She said her business has declined steadily over the past two years because Santa Fe is becoming increasingly less popular as a destination spot.

Mike Coy

Mr. Coy said he manages a hotel in Santa Fe. He stated that, since this ordinance was proposed, he has had to reevaluate his budget and operations. He urged the Council to table this ordinance until it could have a study conducted.

Steve Kalem

Mr. Kalem [spelling unknown], general manager of the Holiday Inn in Santa Fe and president of the Santa Fe Lodgers Association, stated that the Holiday Inn filed bankruptcy 14 months ago in order to restructure, and had to cut costs everywhere. He stated that, two months ago, the Holiday Inn finally emerged out of bankruptcy.

Mr. Kalem stated, "With the current downturn of the economy, and also with the advent of war, we are still struggling with our business." He said Holiday Inn "is a prime example of a business in Santa Fe that is not profitable enough to absorb a wage increase to \$8.50, \$9.50 or \$10.50."

Jerome Eckstein

Mr. Eckstein, manager of the Radisson Santa Fe, stated that a lot of his staff consists of high school students and part time college students, as well as senior citizens during the summer months. He pointed out that the Radisson brings \$5 million annually in lodgers tax revenues to the City.

Mr. Eckstein said the Radisson believes it should compensate its employees for strong education and good job skills.

Jeff Mahan

Mr. Mahan, a resident of District 2, suggested that the Council answer these questions before adopting the ordinance: "How many wage earners are below a reasonable wage level? How many low wage earners have real experience and real skills and are just underpaid? How many support households and children? How many of these low wage earners are entry level employees with no skills or experience who will no longer appeal to employers because they cannot provide value with that wage? Why are we going to eliminate summer jobs for teenagers? How many workers are we going to put out of work? Is it worse to have two jobs or go months without a job? Will you create high unemployment? Do you have any idea how much income and taxes Santa Fe may lose over time? How many businesses are you willing to close? Why are you willing to eliminate the possibility of economic diversification? What about the Santa Feans who are retired or on a fixed income? How many are there now? How many will there be in five, ten or twenty years? What will happen to them? Who will pay for their increased costs, including gas, food, clothes, housing and utilities, not to mention recreation?"

Mark Ward

Mr. Ward, managing partner of the company that owns and operates the Inn of the Anasazi and two other restaurants in Santa Fe, stated that this ordinance will have unintended consequences on the local tourist industry. He said that,

since 9-11, the travel and tourism industry nationwide has been devastated, and most hotels and restaurants in Santa Fe are struggling.

Michelle Coons

Ms. Coons read a resolution adopted by the Association of Commerce and Industry. She stated that this ordinance “will stifle New Mexico’s economy while providing limited and questionable benefits to employees. It is more difficult to do business in a state where the minimum wage differs from city to city. Passage of this proposal will send a signal across the country and abroad that New Mexico is not business-friendly.”

Joe Hoback

Mr. Hoback said his family has owned and operated the Pink Adobe Restaurant for 59 years in Santa Fe. He stated that the Pink Adobe has 60 employees who are paid an average of \$10 to \$13 an hour, which is \$2.15 an hour plus tips. He stated that this ordinance is asking him to raise the \$10 to \$13 to \$13 to \$16 an hour. He pointed out that the Pink Adobe provides health insurance, dental insurance, life insurance, paid vacations and employee meals. He stated that, in order to afford this ordinance, “I’m going to spread the pain around. I will raise my prices a little bit, I’ll discontinue some benefits, and the employee meals will go away.” He stated that the majority of his staff opposes this ordinance because they want to have a choice on how they receive their compensation.

Doug Lanham

Mr. Lanham said he is a new restaurant owner in Santa Fe “and is scared to death” by this ordinance because he has invested quite a bit of money into the restaurant. He stated that he has been in the restaurant business for 30 years, and loves it, “but people don’t realize that for every dollar that’s rung up, after we pay all of our taxes, there’s probably four pennies left.”

Mr. Lanham said he had done the calculations. He stated that projections that costs will increase 1% to 2% was wrong. He stated that his costs will increase approximately 15%. He commented, “That’s tough. We employ 50 people, our payroll annualized this year will be \$420,000. If this passes, I’m afraid we’re going to be in a situation where we’re not going to be able to hire or employ our 50 people; it’ll be more like 25 people. And that’s a shame.”

Deborah Olea

Ms. Olea, co-owner with her husband of Bert's Burger Bowl, El Encanto and Bert's La Taqueria, said the ordinance should be more thoroughly studied. She stated that small business is the backbone of any town or city, and business will have to raise their prices and customers will "really have to pick and choose which businesses will die and which ones will prevail."

Owner of Tomasita's

The owner of Tomasita's Restaurant stated, "The economics of each city or state dictates the marketplace. There's a big difference between Santa Monica, California and Flagstaff, Arizona. That is the reason I believe government should not dictate wage mandates. Demand versus supply and the skill level of various positions is the basis for the starting salary of employees." He noted that a local corporate fast food chain on Cerrillos Road has had a sign out for months requesting applicants for various positions: "The sign is still there. The business has failed to meet the demands of the local workforce. Employees commute from outside of the city limits to earn high wages and avoid the high cost of housing because the City has failed to solve affordable housing."

Toni Maryol

Ms. Maryol, owner of Tomasita's, said she has many hardworking, honest, loyal and friendly employees, and she pays them as much as she can. She stated, "If you pass this, I'd like to know what you're going to give us in return. For example, my COD bill right now is \$50,000....Take that away, and maybe I can figure out how to pay my employees, which I really want to do."

Fernando Olea

Mr. Olea, owner of Bert's Burger Bowl, Bert's La Taqueria and El Encanto, said he moved to the U.S. 20 years ago with "big dreams. This is the land of opportunity. You work hard, you make it. I don't think that this salary increase will help. We will hurt the people that we're trying to help. I agree, they should be making more money, but this is not the way. The way is to train them, give them better jobs, increase the skill levels of the people in our city. Please, think about it."

Sean Knight

Mr. Knight said he did not think an expensive study would reveal anything new. He stated that businesses are "squeezed" in this town because of the rise in property values, and that is what the City should be working on. He stated that rents and building costs are exorbitantly high.

Cathy Jahner

Ms. Jahner said she is a local state and national advocate for worker and family-friendly policies. She stated that she has advocated for “fair pay, equal pay, pay equity, comparable work and every other kind of pay that has come along, including increasing the minimum wage at the federal level.” She stated that she has given the ordinance a lot of thought, however, and cannot support it. She said she has been in Santa Fe for 21 years and is seriously concerned about the economic impact that this ordinance, as proposed, would have on the city. She urged that an independent study be conducted so the Council can make an informed decision.

Carson Nome

Mr. Nome [spelling unknown], representing Howard Johnson on Cerrillos Road, opposed the ordinance because he has learned that people have to work hard in order to earn things, and this ordinance will be giving to people who have not earned that. He stated that it may appear that businesses are making a lot of money in Santa Fe, but that is gross, not net.

Roland Richter

Mr. Richter, owner of Pizza Etc., spoke against the ordinance. He said his business supplies entry level jobs and trains young adults and gives them valuable skills for the future. He stated that, once they reach his business pay ceiling, they will move on to better-paying jobs elsewhere.

Mr. Richter stated that the ordinance does not distinguish among part time workers, unskilled workers or young people seeking a career.

Michael Trujillo

Mr. Trujillo, owner of a limousine service and a security service, stated that this ordinance will not allow him to hire seasonal help, who are kids between 15 and 18. He urged the City to study the impact of this ordinance before adopting it, since it will severely hurt his business.

Randy Randall

Mr. Randall, manager of the Eldorado Hotel, said the hotel offers wages based on skills, “and this scheme will totally undermine this philosophy.”

Mr. Randall stated that Eldorado Hotel donates over \$100,000 in cash and in-kind contributions to nonprofits, and this source “will absolutely dry up.”

Mr. Randall said he felt especially sorry for the nonprofits and small businesses that thought this ordinance would not impact them.

Jennifer Hammit

Ms. Hammit said she is an alumna of St. John's College and has worked as a waitress and dishwasher, and currently manages a roofing company. She stated that she started at \$8 an hour and now makes \$12.

Ms. Hammit stated that, in order to meet ordinance requirements, her company, which pays 61 cents on every payroll dollar in payroll liabilities, insurances, taxes, FUTA, SUTA, general liability and Worker's Comp, will have to raise the wages of all of its employees to receive commensurate pay. She said this will increase their entire payroll plus taxes, etc.

Ms. Hammit said the rich people in Santa Fe are not small business owners. She said the owner of her company takes home \$30,000 a year "if he's lucky."

José Gonzales

Mr. Gonzales, a waiter at Eldorado Hotel and the Rio Chama Steakhouse, stated that this ordinance will hurt him and his family. He asked the Council to table the ordinance because of the national economy and the pending war in Iraq.

Kate Lettenberger

Ms. Lettenberger, manager of the Residence Inn, expressed concern about the increased prices that would be necessitated by this ordinance at the Santa Fe hotels. She said Santa Fe is already at a disadvantage as a destination market because it has no convention center, no major airport, and no convenient and reliable public transportation. She stated that a 10% increase would slow down the tourist industry.

Mary Charlton

Ms. Charlton, a small business owner, stated that businesses should have the right to conduct their business without government interference. She stated, "This is big time interference. Please vote no to the living wage."

Unidentified

A man who did not identify himself said he wished to speak for the aviation industry at the Santa Fe Airport. He stated that, according to the FAA, the Santa Fe Airport is the third-most adversely impacted airport in the U.S. as a result of 9-

11. He stated that it has lost 64% of its commercial transportation in Santa Fe. He noted that, as it happens, 64% is the approximate cost of fuel and labor for aviation-related services. He stated that business at the Santa Fe Airport, in which the City has a major investment, "is dismal."

Paul Margetson

Mr. Margetson, general manager and part owner of the Hotel Santa Fe, said the minimum wage is too low, but this ordinance proposes a wage that is too high and could be onerous. He also questioned why employees of small firms and non profits are not covered, since they deserve to earn as much as people who work for larger firms. He stated that there is a national economic slowdown, and now is not the time to adopt this ordinance. He cited fire danger, drought, water problems, terrorism and the pending war in Iraq. He stated that he has not been able to increase prices at Hotel Santa Fe for the last three years.

Phil O'Keefe

Mr. O'Keefe, general manager of Red Lobster Inns of America, said they serve 250,000 patrons a year at Red Lobster in Santa Fe, and employ 80 people, 50% of whom are servers earning \$12+ an hour. He stated that the credit card tip percentage nationwide is 17%, and in Santa Fe it is 21%. He said 20% of Red Lobster's staff are below \$9 and 30% are \$9 plus. He said the starting wage for people 16 and older can be \$6.75 with no experience, and more with experience. Mr. O'Keefe expressed concern about the effect of this ordinance on mom and pop operations, minorities and Santa Fe youth.

Unidentified

A woman who did not identify herself questioned the need to take such extreme levels with this ordinance, and to do it so impatiently. She said more studies are necessary. She stated, "It's not that people aren't worth some money. But some staff honestly don't deserve \$5.15 an hour." She said her staff makes \$8.50 an hour and up, which she thought fine.

Unidentified

A woman who did not identify herself stated that "Santa Fe is the City Different, but it is not a socio-economic experiment." She said she serves on boards that would be negatively impacted by the ordinance, e.g., the Santa Fe Boys & Girls Club, which operates on a very small budget and struggles to meet expenses, including payroll. She said this is particularly difficult in the summer, when payroll has to be increased to hire additional staff to serve over 5,000 children.

Larry Ayres

Mr. Ayres, a small business owner in Santa Fe with 14 employees, said he would be impacted by this ordinance. He stated that all of his employees expect a commensurate raise on July 1 if this ordinance takes effect, and that will triple the actual costs that his business will have to bear — far more than the percentage projected by the City. He said that will happen across the board in businesses here.

Unidentified

A woman who identified herself as director of operations at Red Lobster, said they have 670 restaurants and their sister concept is Olive Garden. She stated that they pay employees above minimum wage, and offer benefits and health insurance as well as paid vacations. She said, “If we allow unskilled workers to come in at the rate that we are paying our skilled workers, we are greatly doing a disservice to them.”

Cathy Hart Medina

Ms. Medina, human resources director of Coca-Cola Santa Fe, said they are a small private family franchise. She stated that they are not against a living wage, but oppose the idea of local government telling them they have to do something.

Unidentified

A man who did not identify himself stated that adoption of this ordinance will cost Nambé Mills in excess of \$1 million, which will cause the company to consider options such as reducing the Santa Fe workforce and moving some of their operations outside the city or state. He said they might also consider going outside the country or to other manufacturers. He said Nambé has always tried to support local suppliers, but this ordinance could reduce the suppliers’ ability to provide competitive prices for their products and services to Nambé in the future.

Tom Martin

Mr. Martin said business owners should have the freedom of running their businesses “without Big Brother on their backs.” He questioned why the Council does not understand how forcing a higher minimum wage will affect the cost of living and jobs within the city.

Mark Hogan

Mr. Hogan, a 13-year volunteer and board member on Challenge New Mexico, said this nonprofit has been providing vital services to Santa Fe for people with physical and developmental disabilities, including housing in its group homes, job training programs and physical therapy. He said Challenge serves over 500 clients, and has 119 staff members. He expressed concern about the effect of this ordinance.

Melanie McGillvary

Ms. McGillvary, a board member at Challenge New Mexico, asked the Council to consider this nonprofit's unique circumstances and the impact of the ordinance. She said they serve 86 disabled Santa Feans who live in group homes and have nowhere else to turn. She stated that Challenge, unlike other businesses here, cannot let some of its employees go. She said their reimbursements come from the New Mexico Department of Health, and they will not be increased based on the ordinance.

Chris Tiernan

Mr. Tiernan, executive director of Challenge New Mexico, stated that all of their revenues are directed into improving the lives of children and adults with disabilities. He said Challenge administers and staffs eight group homes in Santa Fe. He said that, as mentioned by the previous speaker, reimbursement rates for staff are set by the State, and that cannot be controlled. He asked the Council to consider nonprofits like Challenge that have no control over State funding levels. He submitted some amendments for consideration.

Bob Dunne

Mr. Dunne asked the Council to look at the Raleigh-Durham area in NC, which trained a workforce, got people up to a highly skilled level, and then it was easy to recruit businesses from all over the country to locate there. He said the economy is booming as a result.

Rob Day

Mr. Day, a small business owner in Santa Fe for 28 years, calculated that, on a minimum tip income employee, where he has 26,800 hours, it will come to \$81,000 increased employment pay on just the service staff in his business. He said his wages would increase \$250,000 to \$300,000. He stated that he was not convinced that he could absorb those costs.

Mr. Day also stated that his business donates to the schools here, and that would have to stop.

Herb Cohen

Mr. Cohen, owner of a business in Santa Fe for 30 years, expressed concern about “making Santa Fe an island unto itself — this is a dangerous situation.” He said a study 18 months after the fact is also a mistake. He stated that the study should be done now, before the ordinance is adopted. He said this ordinance “is a terrible gamble.”

Mr. Cohen said he could support this measure on a state level, but to do it any other way would isolate and hurt Santa Fe.

Tom Keig

Mr. Keig, president of the Santa Fe Restaurant Association, opposed the living wage ordinance. He said it will affect costs, expenses, and entry-level employees, as well as donations from restaurants to charitable events.

Unidentified

A man who did not identify himself said he owns McDonald’s in Santa Fe and employs more than 200 people. He challenged Councilors to meet with him to review the actual numbers on his books.

Sam Goldenberg

Mr. Goldenberg, co-chair of the Living Wage Roundtable, said he wished to set the record straight on two issues: there were five members of the Roundtable that represented labor and union interests, and four who represented the business community: “The Roundtable never had a chance.” He said that, at the second meeting, the labor representatives made a motion to have an impact study. He said staff liaison Arturo Rodriguez was asked to do some investigating and come back with a cost estimate. He stated that, at the next meeting, before Mr. Rodriguez could report back, the labor representatives on the Roundtable made a motion that they were not in favor of an impact study, and the motion was defeated; hence, no study was done.

Ken Humes

Mr. Humes, general manager of La Posada de Santa Fe, said he thought the ordinance well intended, but ill constructed. He said further consideration needs to be given. He stated that few of his 200 staff members fall under the ordinance, but “there are myriad elements that go into pay these days, whether

it's gratuities or service fees or commissions, and I don't know that any of these have been taken into consideration." He opposed the ordinance until further study could be done.

Norma Undrow

Ms. Undrow [spelling unknown] said she is a very small business owner in Santa Fe, and contracts out for labor which is paid between \$10 and \$50 an hour. She said she manufactures women's and men's clothing. She asked, "Is the City prepared to pay the consequences or the outlay of money for the lawsuits that will be filed to prevent this ordinance from passing?"

Anna Adams

Ms. Adams said she works for her husband in a small business, and thought this ordinance had "a heart to help people," but thought it would have major unintended consequences. She said one result would be inflation for businesses and individuals, and would increase the cost of groceries and rent.

Ms. Adams stated that this ordinance will probably stimulate an underground economy, with employers hiring people behind the scenes. She questioned whether the City really wants that.

Jim Bradbury

Mr. Bradbury, general manager of La Fonda, urged the Council "to step back and have an objective study done of this so you can look at it without the emotion being exhibited tonight."

Maurice Lierz

Mr. Lierz, a resident of Santa Fe off and on since 1959, said he has no vested interest in the outcome of the ordinance because he is retired. He stated that the City's Finance Department has stated that the City has 5,500 remitters every month reporting an annual total of \$70 million in gross receipts tax. He stated that this translates into the City "tinkering with a \$2.5 to \$3 billion-dollar annual economy of which 75% of the remitters are in retail or services."

Cailen McTavish

Mr. McTavish apologized for speaking earlier in support of the living wage ordinance. He said, "These speakers have convinced me; I had no idea they were so committed to their workers and their continued employment. Since I haven't heard a single business owner say that, if their costs went up, they would proportionately reduce their own salaries, I can only assume that they would

spread the pain around to their workers like me, and I don't want to lose my job, so please — keep me in poverty.”

Pat Atner

Mr. Atner said that people on Social Security and fixed incomes will be affected by this ordinance, because they will not have their own incomes boosted when this ordinance is adopted. He said they will consequently be hit the hardest.

Julia Castro

Ms. Castro, operator of a small business on the Southside, said her business is outside of city limits, but her employees would leave in order to work in the city if this ordinance is adopted. She said she had no problem with tipped employees receiving an increase as proposed in one of the amendments; however, the amount that has been suggested is 100%, and she would not be able to morally allow her tipped employees make twice as much as her non-tipped employees.

Ms. Castro said her clientele would lose out, because she currently serves low priced food to local people.

Georgia Maryol

Ms. Maryol asked the Council not to adopt this ordinance. She stated that she has always been a fair employer in Santa Fe, and has a reputation for that, and does not oppose a living wage. She added, “However, the general public has not had sufficient time to study, research or respond to many aspects of this bill. I believe that excluding some businesses, nonprofits, State employees, limiting the amounts of employees, like if you have nine employees or less, 25 employees or less, etc., is completely discriminatory and unfair. And to me it infers that the penalty should apply to some but not to all.” She noted that page six of the ordinance subjects people to fines and imprisonment, which criminalizes it, “and I don't think there are any criminals in this room.”

Catherine Schepps

Ms. Schepps, a partner in a small business in Santa Fe, urged the Council to study this issue and to recognize the impact this ordinance will have before adopting it.

Jerry Easley

Mr. Easley, president of the Santa Fe Chamber of Commerce, said the Chamber sees several conflict of interest issues that need to be addressed.

Mr. Easley pointed out that this ordinance exempts union shops, and Councilor Ortiz represents unions and derives a portion of his income from union work, so is “providing a favorable situation for employers.” He said Councilor Ortiz has also stated that he included nonprofits with 25 or more employees “because large nonprofits can afford to pay.”

Mr. Easley said, “Any of you who employ or may employ workers have excluded yourselves through the less-than-ten employees exemption. Any of you who have employed or may employ family members, you have provided a similar exemption for yourself. Any of you who serve on the boards of nonprofits with less than 25 employees have exempted organizations in which you have a direct interest.

“Councilor Chavez, you have made an exemption for the college, for certain students at the college, and the college is your employer.”

Mr. Easley suggested that Councilors having any of the conflicts recuse themselves.

[Councilor Chavez and Councilor Ortiz responded to these allegations during the discussion.]

Ed Baca

Mr. Baca stated, “You’ve got skilled workers and you have non-skilled workers. Skilled workers get paid more money, non-skilled get a little less, let’s say between \$8 and \$9 an hour.... I’m sure all of you have gone by the unemployment office in the mornings, you see how many people are standing out there for \$8 an hour, and they don’t pay tax, they don’t pay anything. It’s a no-win situation.”

[This concluded the public hearing portion of this meeting.]

[Recorder note: 73 people spoke for the ordinance, and 85 spoke against it.]

Councilor Ortiz moved approval of the ordinance, with the amendments as proposed, with the following cleanup language:

1. Page 6, line 19, delete paragraph C and replace it with the following:

- (C) *Other Remedies.* The city, any individual aggrieved by a violation of this ordinance, or any entity the members of which have been aggrieved by a violation of this ordinance, may bring a civil action in a court of competent jurisdiction to restrain, correct, abate or remedy any violation of this ordinance and, upon prevailing, shall be entitled to such legal

or equitable relief as may be appropriate to remedy the violation including, without limitation, reinstatement, the payment of any wages due and an additional amount as liquidated damages equal to twice the amount of any wages due, injunctive relief, and reasonable attorney's fees and costs.

2. Page 7, line 4, insert a new section as follows:

Section 7. Section 28-1.10 SFCC 1987 (being Ord. #2002-13, §10) is amended to read:

~~{Separability.}~~ Severability.

~~[The provisions of this section are separable and the invalidity of any part of this section shall not affect the validity of the rest of this section.]~~
The requirements and provisions of this Ordinance and their parts, subparts and clauses are severable. In the event that any requirement, provision, part, subpart or clause of this Ordinance, or the application thereof to any person or circumstance, is held by a court of competent jurisdiction to be invalid or unenforceable, it is the intent of the governing body that the remainder of the Ordinance be enforced to the maximum extent possible consistent with the governing body's purpose of ensuring a living wage for persons covered by the Ordinance.

3. Page 7, renumber Section 7, Section 8 and Section 9 accordingly.

Councilor Coss seconded the motion.

On allegations that he had a conflict of interest, Councilor Ortiz pointed out that he has been representing unions not just at St. Vincent Hospital, the nonprofit to which Mr. Easley had referred, but also represented the guards in Los Alamos. He said he has represented these groups since before being elected to Council.

Councilor Ortiz further pointed out that this was not a quasi-judicial matter, i.e., was not subject to the kind of standard needed for hearings in which Councilors act as judges. He said Councilors were acting as legislators in this matter, and so there was no standard in this context for being fair and impartial.

Councilor Ortiz stated that this bill was not brought forward in a rush or in a vacuum. He pointed out that, in 1994, a resolution was introduced giving certain protections to hotel and restaurant employees. He said that issue was decided upon by a Council in which none of the existing Governing Body members was present with the exception of Mayor Delgado (then a City Councilor) and Councilor Bushee.

Councilor Ortiz also noted that, in 1997, the City Council adopted a City Charter in accordance with a public vote. He stated that discussions by the Council at that time, about acting in the best interest of the citizens of Santa Fe, led some Councilors in 2001 to propose a living wage amendment. He said this amendment was discussed in public hearings and was finally adopted in February 2002 with a companion resolution establishing the Living Wage Roundtable, which met for several months before concluding its deliberations.

Councilor Ortiz said that arguments that this issue has not been studied, and that more information is needed, are two separate matters. He pointed out that this item has been studied and discussed and has been available for public consumption for quite some time. He stated that whether or not the City needs to study and review the City's existing economic condition will be addressed in amendments to be proffered later in this hearing.

Councilor Ortiz stated that the federal minimum wage has not kept up with the cost of living, creating a situation where the minimum wage rate is significantly lower now, in terms of real dollars spent, than when it was adopted. He stated that, in addition, Santa Fe's cost of living is 18-21% higher than the state average for the cost of living, so that a large segment of Santa Fe's population is living at or below poverty level, even though these are full time contributing workers to the local economy.

Councilor Ortiz said he believed the City, as a home rule charter, had a right to propose this minimum wage. He stated, "I would ask those hotel and restaurant owners whose trade association has worked at the state level to introduce state legislation that would preempt the efforts that we're making here tonight, if in fact we did not have this authority, what authority would they have in bringing forward state legislation that would specifically preempt the efforts that we're doing here today?.... Yes, there are compromises that will have to be made because this is a legislative process. There is a concern for small businesses that this Council shares. There are amendments proposed, there was language that was already introduced that would allow a majority — 90% of the businesses who employ workers at minimum wage would be exempt from this particular ordinance.

"Now, whether or not that leads to the parade of horrors that has been trumpeted by the Chamber of Commerce, by the business interests that stand to benefit from the Chamber's advertisements, has yet to be seen. That's why we're doing this survey. If we do a reasonable job of data collection, if we hire competent people who can analyze the data that we collect, in 18 months, before we go up to \$9.50, we should have a better picture of the economic climate here in Santa Fe."

Councilor Ortiz said he therefore supported the proposed amendments.

Councilor Heldmeyer proposed the following amendment:

Amendment #1

Change Section 28-1.5(B, final paragraph as follows:

For ~~restaurant workers who serve customers at tables and~~ who customarily receive more than \$100 per month in tips or commissions, any tips or commissions received and retained by a worker shall be counted as wages and credited towards satisfaction of the minimum wage ~~the minimum wage shall be an hourly rate of \$5.50 per hour,~~ provided that, for tipped workers, all tips received by such workers ~~shall be~~ are retained by the workers, except that the pooling of tips among workers shall be permitted. ~~Beginning....workers."~~

[Note: Last sentence was repealed by implication by Councilor Heldmeyer's amendment.]

The amendment was accepted as friendly.

Councilor Heldmeyer proposed the following amendment:

Amendment #2

Delete Section 28-1.5(A)(4), final sentence, and insert the following:

However, interns working for a business for academic credit in connection with a course of study at an accredited school, college or university, or persons working for an accredited school, college or university while also attending that school, college or university, or persons working for a business in connection with a court-ordered community program such as the Teen Court shall not be counted as a worker for such purposes.

The amendment was accepted as friendly.

Councilor Lopez expressed concern that apprenticeship programs such as those in the Santa Fe Opera also be included.

The amendment was amended further to state:

.... such as the Teen Court, or workers who are in an apprenticeship program in a 501(c)(3) organization (such as the Santa Fe Opera), shall not be counted as a worker for such purposes.

The amendment was accepted as friendly.

Councilor Heldmeyer said she has heard from people in the business community urging the Council to get an objective study done from an unbiased source before acting on this ordinance, but there is not a lot of agreement on what that is because “any kind of prospective study — any study that says what might happen in the future — is by definition going to be somewhat biased by the kinds of questions that are asked and information that’s gathered. And that’s going to be biased by who’s doing the study. That’s the nature of prospective studies.

“The best data we can look at now are retrospective studies that happened in states and in a few situations in cities that have had higher than federal minimum wage. And those studies tell us there is little or no overall effect on the overall economy, but there’s a huge effect for people who are at the bottom of the food chain.”

Councilor Heldmeyer stated that the amendments being proposed would raise the minimum wage to \$8.50 for two years, allowing time to gather data before moving on to higher levels, and to see if those higher levels would be appropriate. She said she has been told anecdotally, and by several speakers at tonight’s hearing, that many businesses already pay at least \$8.50 an hour to their workers.

Mayor Delgado asked Councilor Heldmeyer how her first amendment (#1) would be enforced, and Councilor Heldmeyer responded that the workers themselves would see that it was enforced.

Councilor Ortiz added that the responsibility for such enforcement could fall on the City, but it could also be the individuals themselves. He stated that some members of the Council did not feel that the burden of enforcement should fall on the City, given the potential fiscal impact on the City, since this was an ordinance involving the private sector.

Councilor Chavez asked Chamber of Commerce president Jerry Easley to elaborate further on his earlier remarks that he (Councilor Chavez) should recuse himself from the discussion and vote because of a conflict of interest.

Mr. Easley said that, as he understood it, Councilor Chavez was employed by Santa Fe Community College.

Councilor Chavez responded that this was not correct. He said he was self-employed.

Mr. Easley asked Councilor Chavez if he has employed family members from time to time, and Councilor Chavez responded that he has not, and has not previously.

This concluded questioning from Mr. Easley.

Councilor Chavez spoke to the programs adopted by the City to assist first time homebuyers, summer recreation programs for youth, after school programs, and small business revolving loans. He said the City also supports the Small Business Incubator. He stated, "The City has gone above and beyond what most cities have done, and this does not even speak to all of the other social programs that are provided by local churches and other nonprofit providers. So there is a social implication here. And those are my reasons for being willing to sign onto this living wage ordinance."

Councilor Coss said he would welcome a good economic study addressing how small businesses would be affected by this ordinance, including remarks he has heard from various business owners who say they will have to lay off employees, and other business owners who say that they will be forced to ratchet up all of the wages of their employees if their lowest paid employee is receiving \$8.50 an hour.

Councilor Bushee noted language in the ordinance (page 2, line 22) stating that, according to the NM Department of Labor, 23.5% of Santa Feans employed in the nongovernmental sector earn hourly wages of \$10.50 or less, and asked Mr. Whitman what percentage of the 23.5% earn less than \$8.50 per hour.

Mr. Whitman responded that he did not have those figures, but could calculate them.

Councilor Bushee asked Mr. Whitman how many employees inside of city limits would be impacted by this ordinance, and Mr. Whitman responded that Department of Labor data only collects figures at the county level.

Dr. Pollin referred to page 12 of his study (Fig. 1), which addressed the segment of population in the Santa Fe MSA (the statistical area, which is the city and county combined), earning between \$5.15 and \$8.50 per hour. He said the workforce for the statistical area of 11,446 workers, or 16.4% of the workforce in that area, would be affected. He said these were not necessarily people working in the city, either — only people living in the statistical area.

Dr. Pollin said he did not think there was any reason to expect that the proportions would be markedly different if one were to draw the line at the city.

Ms. Lopez-Eastlick noted that, with respect to the ratio of people in the Santa Fe MSA, approximately 40% of the people in the Santa Fe MSA live inside city limits.

Councilor Bushee noted that one of the newspapers recently published information taken from a privileged communication from City Attorney Bruce Thompson, so felt the communication was no longer confidential and she could question Mr. Thompson on that topic. She commented, "It's already out there in black and white print. I just want to ask you very basic things. You don't have to worry about your future opinions when we are sued."

Councilor Bushee asked Mr. Thompson to discuss why the Council has the ability to enact this ordinance based on general welfare, since that was not permissible in the St. Vincent Hospital appeal.

Raising a point of order, Councilor Ortiz said thought discussion would be damaging not only with respect to the litigation that would ensue on this particular case, but also because Councilor Bushee had raised another case. He said he would therefore recommend that the Council go into executive session if Councilor Bushee wished to continue with this line of questioning.

Councilor Bushee asked Mr. Thompson to comment.

Mr. Thompson first stated that he did not think there had been a waiver of the privilege with respect to the communication. He said, "If one City Councilor turns it over to the newspaper, I think the only body that can actually waive the privilege is the entire Council."

Mr. Thompson also stated that Councilor Bushee was speaking to entirely different issues. He said one dealt with the power of the City Council to enact legislation; the other was the interpretation of an existing State Statute.

Addressing the enforcement mechanism in this ordinance, Councilor Bushee said she was one of the Councilors concerned that the City Manager's Office "would be turned into the wage cops." She pointed out that the City Manager already has a lot on his plate and is barely managing the City with the staff he has.

Referring to the Enforcement section on page 6, Councilor Bushee questioned the City Manager's authority to exercise such powers and serve as a judicial body.

Councilor Bushee further noted that the Council has passed many ordinances in the past that are not enforced.

Councilor Bushee proposed the following amendment to page 6, line 6, paragraph A:

A. *Administrative Enforcement.* The city manager, or his/her designee,

is authorized, as appropriate and as resources permit, to enforce this ordinance with respect to employers who are contractors with the city and covered by this ordinance.

Councilor Lopez seconded the amendment.

Referring to Paragraph B (Criminal Penalty), Councilor Lopez questioned why violation of the ordinance would be considered a criminal offense subject to fines and imprisonment as opposed to being a civil offense.

Councilor Bushee asked Mr. Thompson to describe the maximum penalty that could be imposed under the Criminal Penalty paragraph, and Mr. Thompson responded that the maximum penalty that can be imposed in Municipal Court is \$500 and 90 days in jail.

Councilor Bushee asked Mr. Thompson if that was per employee, and Mr. Thompson responded that he had not interpreted that.

Councilor Coss spoke against the amendment. He said he realized the City Manager's Office was busy, but that was why the "as resources permit" clause was added. He said the self-enforcement mechanism was also included in the ordinance to allow employees to seek redress directly.

Councilor Ortiz pointed out that the proposed amendment would effectively limit the City Manager and, by extension, the City, in terms of investigating any violations.

Councilor Lopez continued to question why in one paragraph there were criminal penalties imposed, and in the following paragraph there was discussion of civil action.

Councilor Ortiz responded that the Criminal Penalty paragraph simply served to track the City's general enforcement powers. He said the "Other Remedies" paragraph was included at the request of certain Councilors, and was designed to provide another mechanism for aggrieved individuals to take matters into their own hands. He said the "package of remedies" in paragraphs A, B and C comprised an escalation of potential consequences for violators of the ordinance.

The amendment was defeated on the following Roll Call vote:

For: Councilor Lopez; Councilor Pfeffer; Councilor Bushee.

Against: Councilor Coss; Councilor Heldmeyer; Councilor Ortiz; Councilor Wurzbarger; Councilor Chavez.

Councilor Ortiz moved an amendment that his original motion for approval include the following amendments proposed by Councilor Chavez (included in the packet):

1. On page 2, line 14, delete the word “city” and insert the word “community”
2. On page 2, line 16, after the word “uninsured” insert the following:

Coupled with high real estate values, low wages reduce the ability of low- and moderate-income residents to access affordable housing. As a result, the city has had to invest significant tax dollars to support affordable housing including funding to nonprofit organizations, purchasing land, building infrastructure and waiving fees. In addition, the city has allocated significant tax dollars to operate after school and summer recreation programs and to support nonprofit organizations offering an array of human services and children and youth services, all of which are needed by very low income residents and their families.

3. On page 4, line 23, delete the word “unpaid”

The amendment was accepted as friendly.

Councilor Lopez said she found the earlier statements by Challenge New Mexico representatives to be very compelling. She noted that they had proposed alternative amendments for consideration.

Councilor Lopez proposed the following amendment:

On page 5, between lines 13 and 14, insert the following:

“C. The provisions of chapter 28 SFCC 1987 shall not apply to any not-for-profit organization organized under the provisions of Section 501(c)(3) of the Internal Revenue Code and which provides services with funds provided under a contract with the State of New Mexico whereby reimbursement rates and staffing ratios are determined by the State or any of its agencies.”

The amendment was accepted as friendly. [Note: this amendment was replaced by a substitute amendment later in the proceedings.]

Councilor Pfeffer asked Dr. Pollin if he had looked at data on the implementation of minimum or living wage laws by municipalities on the private sector.

Dr. Pollin responded that he had, and Councilor Pfeffer asked which municipalities. Dr. Pollin responded that he had looked Santa Monica and New Orleans.

Councilor Pfeffer asked how long those laws were in effect, and Dr. Pollin responded that the laws were never in effect. He explained that these were prospective studies.

Councilor Pfeffer asked Dr. Pollin if he took into account, in his conclusions about cost increases, any wage increase comparable to what was being proposed here.

Dr. Pollin responded that the proposal for Santa Monica had been to raise the living wage to \$10.75 from \$5.75, which was California's minimum wage at the time.

Councilor Pfeffer asked Dr. Pollin how he could know that the cost increase was 1% or 2% or 5% for another industry if there was no empirical evidence.

Dr. Pollin responded that he surveyed businesses and ascertained data on their costs, then compared a survey of businesses in Santa Monica with a parallel survey in La Jolla to ensure consistency. He said he also looked U.S. government survey data of businesses as well as gross receipts data and business license data. He stated, "We were able to say, okay, this is what the wage level is, and you raise the wage up to the living wage. Of course, we did incorporate considerations... of the so-called ripple effects, where the people above the minimum would be also raised. We did a careful analysis of those. We did also of course take into account things like Worker's Compensation. So when you added all those cost factors up, we were able to get an absolute number as to what the cost increases would be for the businesses given their existing payrolls around which we had data. We compared that to the gross receipts, and the statistic that I reported to you with respect to Santa Monica was the statistic of cost increase as a percentage of gross receipts. We did a comparable study in New Orleans, and we did a survey of the businesses there, and we asked them, what are your labor costs, what are your costs of operations. And then we knew what their wages were, we increased the wage to what the new minimum wage would be, and that's how we generated those estimates. Those estimates, by the way, are completely consistent with other studies done through other methodologies; that's why I'm confident that those numbers are correct — not precisely correct, of course, but correct within an order of magnitude."

Ms. Lopez-Eastlick said her organization did a similar study but with a slightly different approach. She said, "We actually contracted with the individual who had understood the impact of the Los Angeles living wage study — who, incidentally, found that enforcement was a huge problem in determining the actual impact of just how much that either impacted employment or wages. But Dr. Sander found some different bottom line. We did not include a percentage of

profits or percentage of revenues in that, but the figure was close to \$120 million that the employers would have to sustain as a cost of that increase.”

It being midnight, Councilor Lopez moved to suspend the rules. Councilor Coss seconded the motion, which passed 8-0 by voice vote.

Councilor Pfeffer noted that Dr. Pollin had indicated there was a connection of wages to productivity, and asked if the increase in productivity only applied to those employed by others (as opposed to self employed persons).

Dr. Pollin responded that the evidence he had was based on two separate sets of data, one a survey of businesses in Santa Monica and the other survey of businesses in La Jolla, where they actually stated what their productivity was. He said he also looked at literature from the hotel and restaurant industry.

Ms. Lopez-Eastlick stated that “BLS data of the unskilled workforce, which is usually segmented by restaurant and the service-oriented workforce, has been relatively stagnant since the mid 1960s when that was looked at. So other productivity could be due to a rise in other industries.”

Councilor Pfeffer, citing frequent references in various presentations to increased productivity and morale after Henry Ford doubled wages, asked if either Dr. Pollin or Ms. Lopez-Eastlick distinguished between employee productivity or morale and wages imposed by government, or offered by the employers directly.

Dr. Pollin responded that he expected that productivity would not be anywhere close to the order of magnitude that occurred in the case of Henry Ford. He said he would expect that the benefits would be significant but relatively small.

Dr. Pollin cited an instance where the head of Catholic Family Services in Rochester, in questioning whether she could afford to pay increased wages if a living wage ordinance were adopted, conceded to him that turnover within her organization could decrease from 40% to 10% as a result.

Ms. Lopez-Eastlick stated that a study done by a living wage proponent at University of California-Berkeley suggested that productivity would increase because more efficient workers would be hired.

Councilor Pfeffer commented that many of his questions about the effect of this ordinance have not been answered, including: 1) Why do so many people have to struggle to get by? 2) What will happen past the city boundaries? 3) Is there a difference between a large employer and a small one, and between for-profit businesses and not-for-profit businesses? 4) Should there be a sunset

clause if the long-term effect is bad? and 5) How can the City monitor and enforce this ordinance?

Councilor Pfeffer said, “In the absence of those answers, I have to ask myself, exactly what are we doing?” He said the Council packets did not include a fiscal impact statement on the cost to the City of enforcing the ordinance.

Councilor Pfeffer questioned the benefit of a study, since there was no empirical data to be studied.

Councilor Pfeffer said he was also troubled by the self-enforcement idea — while it sounded benign, Section 28-1.6 of the ordinance essentially stated that an employee discharged from their job could complain to the City that they were retaliated against because the law just increased their wage. He noted that the employer would be required to keep the employee for 60 days whether the employer could afford it or not. He said the penalty against the employer was also troubling, since the employer could get 90 days in jail or be fined \$500 a day.

Councilor Pfeffer stated, “If this community wants to take this ordinance on as the test case for the nation, so be it; I don’t have any problem with that.... But what I do have a problem with is whom we’re putting at risk. The people we’re putting at risk, according to some of the testimony, is those people who may, despite the enforcement provisions, lose their jobs; those people who may, despite the rules here, be taken off a legitimate payroll on put on a cash basis; those people who are seniors, who are on fixed income, who will see rises in costs... It’ll also apply to people living with AIDS, the handicapped and the very people it is supposed to help.” Councilor Pfeffer said that, as an architect who contracts out at times, he first lets go of the people who are the least skilled.

Councilor Pfeffer pointed out that the Council will never be able to rescind the effects of this ordinance, should it turn out to be a bad idea, including increased prices, lost jobs, lost businesses, and moved businesses. He said, “We will, however, open up those businesses to unemployment charges and claims, and we will open up the City to lawsuits for damages for what we’ve done to them.”

Councilor Pfeffer commented that one of the most egregious things “is the impact on the ability to get and maintain a license to be self employed or to do a business in Santa Fe.” He stated that roughly 60% of people who have businesses in the U.S. are self employed, and that is a fundamental right and part of their economic freedom. He said that, up to now, the only qualification for getting a business license from the City has to meet zoning, building and fire codes — but now, the City Manager will have the authority to order the termination of all economic benefit derived by any offending party and to revoke the employer’s business license. He commented, “I don’t view having a business

license as an opportunity.... I view it as an obligation to feed oneself and one's family."

Councilor Pfeffer commented that the business community in Santa Fe has been very generous in donating to not-for-profits, and in fact the Eldorado Hotel and other hotels have been enormously supportive of not-for-profits: "That they come up here and say that their recourse may be to cut back on donations is a very viable option for them because we may be prohibiting, by law, any of the other actions they may take internal to their own organizations. That's a problem. I don't want to see these folks hurt, but I wish there was a similar good cause on this side of the aisle. I keep hearing about the poor... but on this side of the aisle the arguments are, I cannot pragmatically do this, it is hard for us to do this.... It seems to me what we're doing is something that may be excruciatingly onerous without knowing anything about what kind of impact we're going to have."

Councilor Pfeffer also said he wished there were more "moral content" from business owners saying they could not do this: "I wish I had heard from you guys more than one person coming forward and saying, I don't want the government to interfere with the right of my employees to determine what they want to do with me.... I wish there was something on this side of the aisle that said, we create these jobs."

Councilor Pfeffer stated that no one on the Governing Body is taking responsibility of the impact of its ordinances: "For example, we are an immigrant friendly community. We direct our police force to look the other way when we're talking about immigrants who are not in the country legally. What impact does that have on our wage scale... and on our workforce? If we're trying to help these people, aren't we also hurting them at the same time? Aren't we hurting everybody who is already here at the same time? We have as much responsibility in this picture as much as anybody else."

Councilor Pfeffer stated that the hotel/motel/restaurant industry has contributed a great deal, but it does not have a good reputation in terms of how it treats its people. He said, "People who come into hotels expect servitude, and hotel management expects servitude, and people are treated like servants. And that is an issue that should be addressed. I wish the business community would take on some of these progressive causes and get behind them themselves so other folks don't have to come up here and argue the labor end."

Councilor Pfeffer also said that, based on the division this has created in the community, he thought the voters should decide whether this ordinance should be enacted rather than leaving it to nine people on the Governing Body.

Councilor Pfeffer proposed an amendment that this ordinance will not take effect until it is adopted by popular vote.

The amendment died for lack of a second.

Councilor Ortiz pointed out that the City Charter only allows an initiative through a petition drive signed by a certain number of registered voters in the city.

Asked to comment, Mr. Thompson confirmed that, based on an informal review, there is a reserved power provision within the Charter, but the only provision set out for referendum and initiative is something initiated by a petition drive. He said he would question whether or not the reserved power provision (that says that all powers are reserved, even though they are not specifically set out in the Charter) would give the Governing Body the authority to send this out for a referendum vote.

Councilor Pfeffer then moved this amendment.

The amendment died for lack of a second.

Councilor Wurzbarger read a statement which said, in part: “Although I recognize the absurdity and what I really believe is actual cruelty of our ‘minimum wage,’ I do remain quite unsure whether this is our legal responsibility, but I’m also quite certain at this point in the debate that that’s going to be clearly settled in the courts, starting tomorrow, at what costs to our citizens, either rich or poor, I don’t know.... Having lived here ten years, now, and seen the increasing disparity between the very rich and the working poor, it is clear to me that in Santa Fe the natural balance of the economy is not working for thousands of our citizens. And so I have struggled very hard the past month to find a compromise between business and labor; and like the Roundtable, I have failed....”

Councilor Wurzbarger noted statements in Dr. Pollin’s report that said, “It is our obligation to be as confident as possible that the means we will employ will actually make a positive contribution.” She commented, “I continue to be most uncomfortable with the fact that the living wage ordinance is being proposed without any clear understanding of its potential fiscal impacts on the overall economy of Santa Fe from the lowest paid worker to the largest business. I personally do not believe the national statistics quote by either of our respected guests about applying average living wage increases, which were maybe in the 2% category, that those can be used to predict what would happen when we raise our own wages by 67% in some sectors.

“Earlier, Steve Whitman of our staff referenced the fact that this ordinance could affect some 952 businesses across the county, because that’s the way we

have our data. We do not know how many workers and businesses it may affect in the city. We do not know which sectors will be most affected.... The impact of the small businesses between the 10% and the 20% or the 30%, we also don't know. Most importantly, we do not know what these businesses currently pay their employees, so any baseline for evaluating the impact of our decision as outlined in the ordinance is not available to us as a governing body.

"I believe that passing an ordinance that affects up to 20% of our economy without a proper plan for its evaluation is absolutely poor governance. This ordinance should not be passed or defeated based upon ideology alone. I firmly believe that baseline data should have been provided by the Roundtable, and it wasn't...."

Councilor Wurzbarger said the Chamber, at her request, conducted a survey of businesses asking them if they would be willing to participate in a third party independent confidential study, and within two or three days about 120 businesses indicated their willingness to participate, and all but 36 indicated what minimum wage they would be willing to set. She suggested that this could provide the City with the needed fiscal information to better understand the impact of the ordinance.

Councilor Wurzbarger proposed the following amendment:

Amendment #1:

Add to Section 28-1.12: "The City will contract with an independent third party to develop an evaluation that will generate objective measures on the effect of the Living Wage Ordinance on the health, security, and livelihood of Santa Feans by March 31, 2003. Data necessary for such an evaluation on Santa Fe city businesses will be compiled and presented to the Governing Body for their review on or before July 1, 2003. If the necessary data is not available by July 1, 2003, the Governing Body may, at its discretion, change the effective date of this ordinance to September 1, 2003.

[Note: Last sentence above was replaced by Councilor Lopez' subsequent amendment to make effective date January 2004.]

The amendment was accepted as friendly.

Addressing her next amendment, Councilor Wurzbarger said she felt the Council should scale down the impact of this ordinance, particularly on small businesses, until the study was completed.

Councilor Wurzburger proposed the following amendment:

Amendment #2:

Change Section 28-1.5, p. 3, line 25, to 25 workers from 10.

Change Section 28-1.5, p. 4, line 12, to 25 workers from 10.

Councilor Wurzburger pointed out that these two changes were designed to reduce the potential impact of this ordinance on 50% of the small businesses, i.e., from 19.7% to 9%. She said this would reduce the potential benefits to employees covered from 74.8% to 57.9% .

Councilor Wurzburger asked Councilors to consider this tradeoff until evaluation data were actually in hand in what was now projected as being in 2005.

The amendment was accepted as friendly, with the addition that the title of the ordinance would also have to be changed to reflect the change from 10 employees to 25.

Councilor Bushee commented that, so far, the Council seems to be “trying to pass something that makes political sense, but it’s not making legal sense.”

Councilor Bushee proposed the following amendment to page 5, line 2:

- B. Beginning July 1, 2003, the minimum wage shall be an hourly rate of \$8.50. In computing the wage paid for purposes of determining compliance with the minimum wage, the value of health benefits and childcare shall be considered as an element of wages.

Councilor Lopez seconded the amendment.

Councilor Bushee proposed the following amendment to page 5, line 2, to continue from the language of the previous amendment, which would strike lines 3-7:

~~On July 1, 2005, the minimum wage shall be increased to an hourly rate of \$9.50. On July 1, 2007, the minimum wage shall be increased to an hourly rate of \$10.50. Beginning July 1, 2008, and each year thereafter, the minimum wage shall be adjusted upward by an amount corresponding to the previous year’s increase, if any, in the consumer price index for the western region for urban wage earners and clerical workers.~~

[The language in the next portion of the paragraph, proposed by Councilor Heldmeyer, had been accepted previously as a friendly amendment:]

~~For restaurant workers who serve customers at tables and who customarily receive more than \$100 per month in tips or commissions, any tips or commissions received and retained by a worker shall be counted as wages and credited towards satisfaction of the minimum wage the minimum wage shall be an hourly rate of \$5.50 per hour, provided that, for tipped workers, all tips received by such workers shall be are retained by the workers, except that the pooling of tips among workers shall be permitted.~~

Councilor Bushee's amendment continued, which would strike lines 11-13:

~~Beginning July 1, 2006, and each year thereafter, the minimum wage for restaurant workers shall be adjusted upward by an amount corresponding to the previous year's increase, if any, in the consumer price index for the western region for urban wage earners and clerical workers.~~

Councilor Lopez seconded the amendment but asked Councilor Bushee to consider further amending her language such that the \$8.50 wage would not go into effect until January 1, 2004.

Councilor Ortiz *declined* to accept the January 1, 2004 date as friendly.

Councilor Bushee seconded Councilor Lopez' amendment for discussion.

Councilor Heldmeyer asked Councilor Bushee to explain her first amendment, and Councilor Bushee stated that, "If someone can tabulate and calculate the cost of providing whatever percent of healthcare benefits they do to the employees, that's factored in to their wage equation."

Councilor Heldmeyer asked what "factored in" meant, e.g., if someone pays \$2 for healthcare and \$2 for childcare and \$4.50 as a wage, would that equal \$8.50 She asked Mr. Thompson if, provided one is providing healthcare and childcare in certain amounts, one can then offer less than the current minimum wage in order to do that.

Mr. Thompson responded that they could offer less than the proposed \$8.50, \$9.50 or \$10.50, but could not go below state or federal minimum wage because the City does not have the authority to set those aside. He added: "To the extent that these other benefits are being offered, that would reduce the amount

that would be required to be paid as the living wage that you're proposing tonight."

Councilor Wurzbarger said numerous workers have approached her to say that they would hate to have their benefits lost as a result of trying to meet the minimum requirement, and would prefer to have their benefits counted up to \$8.50. She asked Councilor Ortiz why that was not included in the ordinance.

Councilor Ortiz said he objected to Councilor Bushee's motion for three reasons: 1) The true value of what the City pays its own employees is \$8.50 plus benefits; 2) When the City went through this process last year, the Council agreed to establish wage levels at \$8.50, \$9.50 and \$10.50 to roughly bring them up to 80% of established data; and 3) In the original proposed amendments, he included an incremental discount that had the starting minimum wage at \$10.50 to go up to \$12.50 with a \$2 discount for entities providing benefits.

Councilor Ortiz pointed out to Councilor Bushee that the Council has had an entire year to look at this issue, and he thought it inconsistent for her to bring up these amendments now, given that there has been no public input or discussion previously.

Councilor Bushee remarked, "Consistency works when you want it to work," pointing out that the City excludes part-time workers from its own ordinance, yet includes them in tonight's ordinance.

Councilor Bushee's first amendment (regarding benefits and childcare) passed on the following Roll Call vote after Mayor Delgado broke a tie, as follows:

For: Councilor Lopez; Councilor Pfeffer; Councilor Bushee; Councilor Wurzbarger; Mayor Delgado.

Against: Councilor Coss; Councilor Heldmeyer; Councilor Ortiz; Councilor Chavez.

Councilor Bushee's second amendment, striking lines 3-7 and 11-13 on page 5, was defeated on the following Roll Call vote:

For: Councilor Lopez; Councilor Pfeffer; Councilor Bushee.

Against: Councilor Heldmeyer; Councilor Ortiz; Councilor Wurzbarger; Councilor Chavez; Councilor Coss.

Councilor Lopez restated her amendment, which changed the \$8.50 minimum wage implementation date to January 1, 2004, to also reflect that all of the other July dates would be moved to January of the following year.

Speaking to her amendment, Councilor Lopez said she did not want to see the implementation of the ordinance dependent on Councilor Wurzburger's proposed independent third party study, due in March 2003. By extending the deadline to January 1, 2004, she said, there would be time for public comment and discussion and for the community to prepare itself.

Councilor Ortiz *declined* to accept the amendment as friendly.

Councilor Ortiz proposed the following amendment instead:

B. ~~Beginning July 1, 2003~~ No later than January 1, 2004, contingent upon the completion of the baseline data survey, the minimum wage shall be an hourly rate of \$8.50...

Councilor Lopez *declined* to accept the amendment as friendly.

Councilor Lopez said predictability was very important, and she thought businesses should know the precise effective date.

In discussion, and responding to questioning from Councilor Bushee, Councilor Wurzburger said the intention of her original amendment was to make sure that the City would at least have the baseline data in place, having agreed upon the criteria, before proceeding with the study, after which the City would decide whether to go forward with \$9.50 and then \$10.50. She said the study should take 18 months.

Councilor Lopez proposed the following amendment to Section 28-1.12 on page 7:

Living Wage Review. The city ~~endeavors to~~ will conduct a review of this ordinance....

Councilor Ortiz accepted the amendment as friendly.

Councilor Lopez proposed the following amendment to Section 28-1.12 on page 7:

Living Wage Review. The city will conduct a review of this ordinance on or before ~~January 1~~ July 1, 2005....

Mayor Delgado asked if he understood correctly, then, that by January 1, 2004, the City would have a study completed.

Councilor Lopez responded that this was correct, as per Councilor Wurzburger's amendments defining the study.

Mayor Delgado remarked, "I've just go to say that this study thing sounds really good, but we had two economists totally disagree on what we were talking about." He predicted that the Council would be split down the middle when the results were presented.

Councilor Lopez's amendment, changing all of the July dates to January of the following year, as well as the amendment to Section 28-1.12, passed on the following Roll Call vote, with Mayor Delgado breaking a tie, as follows:

For: Councilor Lopez; Councilor Pfeffer; Councilor Wurzburger; Councilor Bushee; Mayor Delgado.

Against: Councilor Ortiz; Councilor Chavez; Councilor Coss; Councilor Heldmeyer.

Councilor Lopez stated that she was concerned about the effect of this ordinance on youth based on public input she had heard. She said she was speaking specifically to seasonal or summer employment, and asked Michael Trujillo and Carol Oppenheimer to comment.

Mr. Trujillo, owner of Michael's Valet, Private Ride and Griffin Group Protective Services, stated that he was not only concerned about the young people he hires, but also noted that the Santa Fe Opera hires 65 to 85 ushers who would be greatly impacted. He questioned why the City will not pay its own part time employees \$8.50 an hour, yet wants to impose this on the private sector. He stated that he carries 20-25 employees on his payroll during the winter months, but this increases to 64 in the summer.

Mr. Trujillo stated that there should be a youth exemption in the ordinance.

Living Wage Roundtable member Carol Oppenheimer said she understood the exemptions agreed to by Councilors as amendments would cover internships and work study exemptions, and now businesses with fewer than 25 employees have been eliminated as well.

Ms. Oppenheimer said she would urge Governing Body members to "not make this into Swiss cheese and make so many holes that there's nothing left."

Mr. Trujillo stated, "I'm also not interested in Swiss cheese; I just want my kids to be able to afford Taco Bell."

Councilor Heldmeyer stated that some youth in the community are working part time in order to live and eat, while others are not. She said it would be very difficult to differentiate between these two groups in this ordinance.

Councilor Heldmeyer said the City is in a very different position, in that it has a small and finite number of part time job categories -- the largest percentage is made up of lifeguards and senior citizen cross guards. She stated that, while it is highly unlikely that the City would take full time permanent jobs in the public sector and turn them into temporary or part time jobs in order to take advantage of not paying the minimum wage, in the private sector, this could be “the double whammy” — if the ordinance states that someone does not have to pay the minimum wage to someone who is part time, it gives great incentive to businesses to make everybody part time. She stated that the sponsors of the ordinance consequently made a specific distinction between private and public sector employees.

Councilor Lopez moved that, as Councilor Wurzburger’s proposed study goes forward, in compiling the data, consideration should be given to potential impacts on youth employment and possible recommendations that might prevent unforeseen consequences hurting children in the community.

The amendment was accepted as friendly.

Councilor Ortiz stated that Councilor Lopez’s earlier language on not-for-profits, submitted by Challenge New Mexico, be deemed not friendly and that she propose substitute language.

Councilor Lopez said she did have substitute language that had been agreed on by the different parties.

Councilor Lopez proposed the following substitute amendment:

Nonprofit organizations whose primary source of funds are from Medicaid waivers are exempt.

The amendment was accepted as friendly.

Mayor Delgado asked if this exemption also applied to organizations such as La Familia Medical Center, Esperanza, New Vistas, Open Hands, Recovery of Alcoholics Program, Presbyterian Medical Services, Boys & Girls Club, Santa Fe Care Center, Headstart, Santa Fe Jobs for Progress, St. Elizabeth Shelter and Santa Fe Children’s Museum.

Mayor Delgado said he would like to see the ordinance eliminate any reference to human services groups. He pointed to the altruism of these groups and questioned why they were even being considered as part of this ordinance.

Councilor Ortiz called for the question on the main motion, with all of the amendments that have been included. Councilor Wurzburger seconded the motion, which passed 7-1 by voice vote, with Councilor Lopez voting against.

Ordinance No. 2003-8, as amended, passed on the following Roll Call vote:

For: Councilor Ortiz; Councilor Wurzburger; Councilor Bushee; Councilor Chavez; Councilor Coss; Councilor Heldmeyer; Councilor Lopez.

Against: Councilor Pfeffer.

**AMENDMENT TO PREVIOUSLY-ADOPTED INCLUSIONARY ZONING
AND CAPITAL IMPACT FEE ORDINANCES**

Councilor Lopez amended her motion for approval of the Inclusionary Zoning and Capital Impact Fee ordinances to include the amendments. Councilor Heldmeyer seconded the motion, which passed on the following Roll Call vote:

For: Councilor Pfeffer; Councilor Wurzburger; Councilor Bushee; Councilor Chavez; Councilor Coss; Councilor Heldmeyer; Councilor Lopez; Councilor Ortiz.

Against: None.

ADJOURN

Its business completed, the Governing Body adjourned the meeting at approximately 2:00 a.m.

Approved by:

Mayor Larry A. Delgado

ATTESTED TO:

Yolanda Y. Vigil, City Clerk

Respectfully Submitted:

Judith S. Beatty, City Council Reporter